SUPREME COURT OF THE UNITED STATES.

No. 471.

GEORGE CROUCH, APPELLANT,

vs.

WILLIAM ROEMER.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

INDEX.

	Original.	Print.
Appeal	1	1
Citation	III	1
Assignment of errors	IV	2
Bill of complaint	1	3
Demurrer	14	7
Affidavit of E. B. Barnum	22	8
Leave granted to amend bill	25	9
Order to amend	27	9
Amendments to bill of complaint	28	10
Demurrer overruled	30	10
Answer	30	10
Replication	45	13
Opinion	48	14
Decree	52	15
COMPLAINANT'S PROOFS	53	15

WITNESSES.

Bains, George B	53	41
Baker, Annie J	170	121
Barnett, Oscar	119	65
Bartlett, Emma	71	31
Bremer, Lilder	117 & 167	72,109
Crouch, A. A	113 & 165	69,106
Crouch, Ed. W	167	109
Crouch, George	54	35
Dodge, Emma F	169	115
Hudson, James	70	30
Fitzgerald, Andrew—sur-surrebuttal	170	120
Gaskill, Wm. H	122 & 168	69,70
Hays, John P	53	39

	Original.	Print.
Jones, Thomas W	63	24
Kennaly, James	90	48
Leitch, James	104 & 156	61, 108
Korn, Henry	80	39
Morrison, James J	116	72

COMPLAINANT'S EXHIBITS.

F.—Bill of goods bought by Rumpp	106	63
G.—Letter of Rumpp, settling account	106	63
H.—Statement of Easter and Winship	145	98
I.—Rumpp's statement of shawl straps	120	75
J.—List of persons who have paid royalty	154	106
L.—Hamilton's address in New York Directory	157	109
M.—Affidavit, Geo. A. Easter, July 21, 1874	158	110
N.—Letter of Rumpp, August 11, 1874	159	110
O.—Affidavit, Seth H. Hatch, October 17, 1874	159	111
P.—Affidavit, Geo. A. Easter, October 16, 1874	160	112
R.—Letter of Rumpp, September 24, 1874	160	112
S.—Letter T. W. Porter, January 5, 1869	161	113
T.—Meinberg's patent, August 10, 1875 (not printed)	162	114
U.—File wrapper, Meinbergh's application (not printed)	162	114
V.—Affidavit, Seth H. Hatch, July 21, 1874	162	114
Z.—Letter of Parsons	172	123
Freeman, 1	178	129
Freeman, 2	179	129
Freeman, 3	180	130
Freeman, 4	181	131
Freeman, 5	182	132
Freeman, 6	182	132
DEFENDANT'S PROOFS	185	134
Answer	186	134

WITNESSES.

Andrews, A. Y	337	267
Andrews, A. Y., recalled, surrebuttal	356	283
Berger, Henry, surrebuttal	361	289
Bispham, D. F., surrebuttal	350	278
Blair, A. S., surrebuttal	371	299
Buckley, P. J	275	211
Conrad, J. F., surrebuttal	357	285
Davis, W. H., surrebuttal	358	286
Easter, G. A	301	234
Freeman, J. E., surrebuttal	353	281
Gamble, Edward, surrebuttal	345	273
Hamilton, sr., James	219	157
Hamilton, sr., James, recalled, surrebuttal	344	272
Hamilton, jr., James	221	160
Hamm, Frederick, surrebuttal	363	290
Hinton, William, surrebuttal	364	291
Hatch, S. H	305	237
Hoffman, L	305	291
Hite, James, surrebuttal	369	297
Hunton, C. L	297	309

	Original.	Print.
Mahaffey, Samuel, surrebuttal	349	297
McCabe, James, surrebuttal	354	300
Meinberg, Franz	286	247
Metzger, Philip	287	248
Miller, C. H.	216 & 289	185, 249
Miller, F. W., surrebuttal	348	274
Paris, E., surrebuttal	302	259
Porter, T. W.	295	219
Porter, H. K	300	223
Rinker, Daniel	220	216
Roemer, William	303	262
Rowen, John	220	142
Rumpp, C. F.	241	170
Schmidt, F. C	326	285
Segee, B. M., surrebuttal	300	257
Towle, H. E	203	144
Turner, C. B., surrebuttal	351	279
Watson, W. C	212 & 268	182, 195
Watson, W. C., recalled, direct	315	267
Watt, F. H., surrebuttal	351	279
Webb, E. C	330	288

DEFENDANT'S EXHIBITS.

1	Watson's patented corrugated cross-bar and handle	204	145
2	Watson's patented bundle holder	205	146
3	Goodrum's patented book holder with flat bar, perforated ends	205	146
4	File wrapper, Goodrum's patent, October 16th, 1866	190	137
5	Copy Watson's patent, September 24th, 1867	195	140
6	Copy Watson's patent, March 17, 1868	199	142
7	Tracing of Webb's school strap	329	289
8	Watson's pamphlet	215	151
9	Defendant's bundle holder without straps	212	182
10	Watson's patented bundle holder, perforation in bar	212	182
11	Watson's patented bundle holder with friction clamp	212	182
12	Watson's bundle holder with cross straps	212	182
13	Wooden pattern cross-bar with loops	213	182
14	Brass bar with loops cast on it	213	182
15	Rowen's memorandum book	235	163
16	Rowen's account book	236	164
17	Rumpp's heavy shawl strap of 1866	241	170
18	Rumpp's two-strap shawl strap	242	170
19	Rumpp's three-strap shawl strap	242	169
20	Copy Rumpp's letter to complainant	245	183
21	Copy Porter's patent, December 22, 1868	295	219
22	Copy Porter file wrapper	299	222
23	Rinker's shawl strap	219	215
24	Copy Watson file wrapper	259	195
25	Buckley's business card	277	213
26	Sketch made by Buckley	278	214
27	Sketch made by Buckley	278	214
28	Hatch's shawl strap of 1865	285	220
29	Meinberg's rigid fixing for shawl straps	289	250
30	Burial certificate of Mrs. Meinberg	292	250
31	Miller's letter to Watson	293	262

		Original.	Print.
31	Andrew's letter to Briesen	339	268
32	Extract from Rumpp's book, showing Bain's purchases	347	275
33	Extract from Rumpp's book, showing Bain's purchases of rigid-bar shawl straps from Rumpp	348	276
35	Conrad Brothers' bill from Rumpp	358	285
36	File wrapper interference, Meinberg vs. Bartlett	365	292
37	Official letter of allowance to Meinberg	368	296
38	Official letter declaring interference between Meinberg and Bartlett	368	297
39	Official letter deciding interference between Meinberg and Bartlett	369	297
40	File wrapper, Bartlett's application for patent	370	298
41	Trow's Directory, 1864–1865	370	298
42	Trow's Directory, 1859–1860	370	298

EXHIBITS.

"Rumpp."	Rumpp's shawl strap made for Turner	219	157
"Rowen."	Rowen's shawl strap	224	162
"Rumpp Account Book."	Rumpp's salesbook, 1867	243	181
"Meinberg's Exhibit 1."	Shawl strap with serrated sheet-metal cross-bar	316	248
"Meinberg's Exhibit 2."	Shawl strap with stiff corrugated cross-bar	316	248
"Meinberg's Exhibit 3."	Shawl strap with stiff metal-lined inlay	316	248
"Marked for Identification."	Hatch's affidavit, July 21, 1874	311	243

SCHEDULE OF MATTERS MARKED FOR IDENTIFICATION BY DEFENDANT.

Description.

Wooden bundle holder with leather strap	213 & 331	158, 261
Subpœna, Crouch vs. Rumpp	246	184
(Exhibit 30.) "Miller's letter to Watson"	315	247
Meinberg's new shawl straps, A, B, C, D	319	250
Watt's affidavit	362	290
Crouch affidavit vs. Roemer	332	264
Clerk's certificate	374	301

I Circuit court of the United States for the district of New Jersey.

GEORGE CROUCH, APPELLANT,
vs.
WILLIAM ROBBINS, RESPONDENT.

To the honorable the Supreme Court of the United States:

The appeal of George Crouch, the above-named complainant and appellant, respectfully showeth:

That upon the ____ day of ____, the above-named complainant filed his bill in the circuit court of the United States for the district of New Jersey against the above-named defendant and respondent, praying [illegible] decree him [illegible] of the [illegible] in said bill of complaint mentioned and for the account and payment thereof, and

II That on the 27th day of September, 1877, a final decree was made and pronounced in the same cause, [illegible] adjudged and decreed that the said bill be dismissed, and that said defendant recover the sum of one thousand and twenty-two dollars as his costs therein.

Wherefore this appellant appeals from the whole of said decree of said circuit court of the United States, and respectfully prays that the decree of the said circuit court dismissing the bill, as aforesaid, [illegible] ceedings, evidence, and proceedings in said cause may be sent [illegible] preme Court of the United States without delay, and that [illegible] Supreme Court will proceed to hear the said appeal, and [illegible] decree of the said circuit court and every part thereof may be [illegible] and a decree made in favor of your petitioner, with [illegible] or such other decree as to the said Supreme Court shall seem [illegible]

Dated Nov. 1, 1877.

E. R. BARRETT,
Sol'r & of Counsel for Complainant Appellant.

Allowed.

JOHN T. BIXON, J.

III I admit service of a copy of within papers this 19th day of November, 1877.

A. V. DRUMMOND,
Sol'r for Def't Respt.

By the honorable John T. Bixon, one of the justices of the circuit court of the United States for the district of New Jersey.

To WILLIAM ROBBINS:

Whereas George Crouch has lately appealed to the Supreme Court of the United States from a decree lately rendered in the circuit court of the United States for the district of New Jersey, made in favor of you, the said William Robbins, and has filed [illegible] law, you are therefore hereby cited to appear before the said Supreme Court at the city of Washington, on the first Monday of October [illegible] thousand eight hundred and seventy-eight, next, and to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the city of Trenton, in the district of New Jersey, in the third circuit, this [illegible] day of [illegible] year of our Lord one thousand eight hundred and seventy-seven.

JOHN T. BIXON, J.

Assignment of errors.

IV

UNITED STATES OF AMERICA, ss:

In the Supreme Court of the United States, October term, 1878.

GEORGE CROUCH, APPELLANT,
vs.
WILLIAM BOEHMER, APPELLEE.

Appeal in equity from the circuit court for the district of New Jersey.

And now comes the appellant, by R. B. Barnum, his counsel, and says that in the proceedings, orders, and decrees in favor of the said appellee, which are contained in the transcript of the record of the cause, there is manifest error in the following, among other things, to wit:

First. The said circuit court erred in dismissing the bill herein for want of equity.

V Second. The said circuit court also erred in decreeing costs against the said appellant in favor of said appellee.

Third. The said circuit court also erred in not decreeing that said appellee is guilty of infringing the letters patent of appellant.

Fourth. That the said circuit court also erred in decreeing said letters patent invalid.

Fifth. That said circuit court also erred in not decreeing an injunction against said appellee as prayed in said bill.

Sixth. That said court also erred in not decreeing damages to the said appellant from said appellee for infringement as prayed.

Seventh. The said proceedings, orders, and decrees, so far as the same are in favor of the said appellee, and against said appellant, are otherwise manifestly erroneous and contrary to the law of the land.

Wherefore said appellant prays that for the errors aforesaid the final decree of said circuit court dismissing the said bill, and the

VI other proceedings, orders, and decrees in favor of said appellee, and against said appellant, in said record contained, may be annulled, reversed, and altogether made as nothing, and that this cause may be remanded to the said circuit court with directions to enter such orders and decrees therein in favor of said appellant as are prayed for in said bill, and that they may be restored to all things which they have lost by reason of the errors aforesaid, &c.

R. B. BARNUM,
Sol. & Counsel for Appellant.

Filed Nov. 13th, 1877. S. D. OLIPHANT, *Clerk.*

I do hereby certify the foregoing, written on I, II, III, IV, V, VI foregoing pages, to be true copies of the petition, allowance, citation, and assignment of errors on appeal in this cause. Witness my hand and the seal of the court at Trenton, N. J., this 4th day of June, A. D. 1878.

[SEAL.] S. D. OLIPHANT,
Clerk, &c.

1 Among the records of the circuit court of the United States in and for the district of New Jersey, in the third circuit, in equity, is enrolled the following, viz:

GEORGE CROUCH, APPELLANT, vs. WILLIAM ROSSIER, APPELLEE. } No. 26. March term, 1874. On bill, answer, &c. Decree for appellee.

E. R. Barnum, solicitor for appellant.
Arthur V. Briesen, solicitor for appellee.

Bill of complaint.—Filed Sept. 18th, 1874, and subpœna issued.

To the judges of the circuit court of the United States for the district of New Jersey:

George Crouch, of the city, county, and State of New York, and a citizen of said State, brings this his bill of complaint against William Rossier, of the city of Newark, county of Essex, and State of New Jersey, and a citizen of said last-mentioned State.

2 And thereupon your orator, [illegible]

3 and your orator [illegible]

4 executed and other letters patent [illegible]

the said amended specification for the same invention, a duplicate whereof is given in the schedule thereto annexed and the drawings accompanying the same and made a part thereof, a copy of which said schedule is hereto annexed, and which your orator prays may be taken as a part of his said bill of complaint, as by reference to the said petition and letters patent now in the possession of your orator ready to be produced as your honors may direct, will more fully and at large appear, and to which, for greater certainty, he prays leave to refer.

And your orator further shows unto your honors that your orator, after the issuing and delivery of the said letters patent, did, at great expense and [illegible] bring the said invention into public use and introduce the same into general use throughout the United States, and has from time to time since the granting of said letters patent, at great expense, made many valuable improvements in the said invention, which have also been introduced into general use, and which your orator is now ready and willing to put in use.

And your orator further shows unto your honors that the said defendant, [illegible] and since the 1st day of August, 1874, has been and still is engaged in the manufacture and sale, at the city of Newark, New Jersey, and within the jurisdiction of this court, and elsewhere, of large quantities of sheet-metal [illegible] constructed and operated in accordance with the invention and improvements secured to your orator by the said letters patent, and the defendant has sold and still sells the same to various persons residing within the district aforesaid, and in various other parts of the United States, and has made great profits and gains by the manufacture and sale thereof, which profits and gains rightfully belong to your orator, and the defendant threatens and intends to continue the manufacture and sale of said [illegible] unless restrained by the injunction of this court.

And your orator further shows unto your honors that in a suit in the circuit court of the United States for the district of New Jersey, in equity, wherein [illegible] was complainant, and [illegible] Jersey, and [illegible] was defendant, a decree was duly entered on the 10th day of May, 1875, in favor of said complainants and against said defendant, adjudging and decreeing that [illegible] letters patent were valid, and that the said [illegible] was the first inventor and discoverer of the said improvements and [illegible] and that the said [illegible] infringed upon the said letters patent, by the manufacture and sale of [illegible] and perpetually enjoining the said [illegible] from further infringement upon the said letters patent, by the manufacture and sale of [illegible] and directing an account to be taken of the profits and gains which the said [illegible] had made by the manufacture and sale of [illegible] and that the said [illegible] should pay to the said [illegible] the profits and gains which he

and that he has since refused to make any other or further statement or pay any royalty thereon to your orator or to any other manufacturer whom your orator named, thereby compelling your orator to bring this suit to obtain the benefit of your laws.

To the end, therefore, that your orator may have adequate relief only in this court where matters of discovery are properly cognizable and enforcible, and to the end therefore that this suit may be fully, fairly and truly tried, and as the best of his knowledge, remembrance and belief, direct, true, and perfect answer make to all the matters and things herein before set forth, and that as fully and particularly as if the same were here again repeated, and he thereunto specially interrogated thereto, and that he may be ordered and compelled by

8 writ of injunction issued out of and under the seal of this Honorable Court from further

using, or causing to be used, or selling or causing to be sold, or in any way aiding or abetting any other person in using or selling or causing to be used or sold, or in any way aiding or abetting any other person in using or selling or causing to be used or sold, or in any way aiding or abetting any other person in using or selling or causing to be used or

UNITED STATES PATENT-OFFICE.

George Crouch, of Westport, Connecticut. Letters patent No. 82,906, dated September 29, 1868; reissue No. 4,289, dated March 7th, 1871. Improvement in shawl-straps.

The schedule referred to in these letters patent and making part of the same.

To all whom it may concern:

11 Be it known that I, George Crouch, of Westport, in the county of Fairfield and State of Connecticut, have invented and made an improvement in straps for shawls, &c.; and the following is declared to be a correct description thereof.

Before my invention straps had been used to confine a shawl or similar article in a bundle, and a leather cross piece with loops at the ends had extended from one strap to the other; and above and attached to this leather cross piece was a handle. This leather cross piece or connecting strap is liable to bend and allow the straps to be drawn toward each other by the handle in sustaining the weight; hence the handle is not kept in a proper shape and this handle is inconvenient to grasp.

My invention consists of a rigid cross bar beneath the handle, combined with suspending-straps that are to be passed around the shawl or bundle, such straps passing through loops at the ends of the handle.

In the drawing—

Figure 1 is an elevation of the shawl strap as in use; and—

Figure 2 is a section at the line *x x*.

12 The cross-bar A is made of rigid material, and connected to the same is the handle B. C C, are loops for the suspending-straps D D to pass through. This rigid cross-bar A prevents the handle B drawing the loops C C and straps D toward each other, and keeps the ends of the handle at the proper distance apart, and, consequently, the shawl or bundle is suspended and preserved in the proper shape in transportation.

The loops C are shown as made from the leather of the handle B, extending beyond the end of each handle, and folded to form the loops. This is much preferable to the loops made at the ends of the leather strap heretofore used below the handle.

The straps D D are to be of any usual character, and I prefer to make the rigid cross-bar of thin sheet metal, stamped up in the corrugated form shown sectionally in Fig. 2 at *a a*, and covered with leather, as this form insures strength and stiffness with but little weight.

I claim as my invention—

1. The rigid cross-bar A, connecting the ends of the handle B and provided with loops *c* for the straps D, substantially as and for the purposes set forth.

2. The loops C C made of the leather of the handle, and secured to the rigid cross-bar A, as and for the purposes set forth. 13

3. The rigid cross-bar for a shawl-strap made of sheet metal, corrugated and covered with leather, as and for the purposes set forth.

Signed by me this 24 day of February, A. D. 1871.

GEO. CROUCH.

Witnesses—

CHAS. H. SMITH,

GEO. T. PINCKNEY.

14 *Appearance for defendant.—Filed Oct. 27th, 1874.*

Please take notice that I appear in behalf of the defendant in the above entitled action.

A. V. [illegible],
276 Broadway, New York.

To the clerk of the court.

Demurrer.—Filed November 25th, 1874.

The demurrer of William Beemer, defendant, to the bill of complaint of George Crouch, complainant.

This defendant by protestation not confessing or acknowledging all or any of the matters and things in the said bill of complaint mentioned in such manner and form as the same are

and alleged, doth demur thereto, and for cause of demurrer

15 shows that in case the complainant [illegible] true, which he does not admit, [illegible] matter of equity whereon to ground [illegible] and prayed for, nor has the complainant [illegible] case so entitles him in a court of equity to [illegible] or against this defendant, touching the [illegible] any of such matters.

And this defendant, for causes of demurrer to the said bill of complaint shows: That it appears from and by said bill of complaint that the letters patent which the complainant alleges were issued to him on the 29th day of September, 1868, are now in the possession of the complainant, and, as the bill alleges, ready to be produced by the complainant, which renders it clear that said letters patent cannot have been surrendered and

16 in the bill and as required by law in applications for the reissue of patents; and that the complainant cannot bring suit under an alleged reissue of a patent of which the original patent has never been surrendered, but is still in the possession of the complainant.

And for further causes of demurrer to [illegible] this defendant shows that it appears by and from said bill that this defendant, in and about the year 1872, obtained the [illegible] sell shovel-straps embodying the [illegible] cated as set forth in the bill of complaint, and that

17 revoked, or that it is at all [illegible] defendant still has and enjoys the right, power, and liberty to make and sell shovel-straps embodying the [illegible] tion, patented as set forth in his bill, and that [illegible] such license defendant and [illegible] fendant for alleged infringement of said [illegible]

And for further causes of demurrer to the said bill of complaint this defendant shows that it appears by said [illegible] at the determination of such suit which is now [illegible] pleted, to be brought by [illegible]

18 continue the [illegible] complainant [illegible] of [illegible] [illegible] [illegible]

And this defendant, for further cause of demurrer to the said bill of complaint, shows that it appears from the said bill of complaint that this defendant in manufacturing and selling shawl-straps, which contain the alleged invention patented to the complainant, does so by permission and under license of the complainant, and that an action which is based upon an alleged infringement of the patent or reissued patent is therefore not the proper remedy for the complainant, but that the license or agreement alleged to have been made by the complainant should be the basis of a suit, which the complainant can bring against this defendant for any violation of such license or agreement.

And this defendant, for further cause of demurrer to the said bill of complaint, shows that the said bill of complaint does not show whether the injunction asked for therein is to be a preliminary injunction, pending this suit, or a perpetual injunction, or what kind of a special injunction, as required by the 21st rule of the rules of practice of the courts of equity of the United States, and that the prayer for process for subpœna in the said bill does not contain the name of the defendant named in the introductory part of said bill, as required by rule 23 of the rules of practice for the courts of equity of the United States, and that therefore the writ of subpœna issued by the clerk of this hon. court against this defendant was illegally and improperly issued, and this defendant consequently improperly and illegally brought before this hon. court.

ARTHUR V. BRIESEN,
Solicitor, of Counsel for Defendant.

238 BROADWAY, NEW YORK, *November* 24th, 1874.

I certify that in my opinion the foregoing demurrer of William Boemer, defendant, to the bill of complaint of George Crouch, complainant, is well founded in law and proper to be filed in the above cause.

ARTHUR V. BRIESEN,
Of Counsel for Defendant.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

William Boemer being duly sworn, deposes and says, that he is the defendant in the above-entitled cause of George Crouch vs. William Boemer; that he has read the foregoing demurrer to the bill of complaint in this suit, and that the same is not interposed for the purpose of delaying said suit or any proceedings therein.

WILLIAM BOEMER.

Subscribed and sworn to before me this 25th day of November, 1874.

JOHN A. SHIELDS,
U. S. Commis. S. D. of N. Y.

Aff'd & order for leave to amend bill.—Filed December 13th, 1875.

SOUTHERN DISTRICT OF NEW YORK,
City and County of New York:

Edmund B. Burnham, being duly sworn, says he is the solicitor for the complainant in the above-entitled suit; that the draft of a bill in equity to be filed in said commenced upon the reissued letters patent granted to the complainant under date of [illegible]

7th, 1871, was prepared in Chancellor's office, and presented to be printed by Complainant's Solicitor, that the [illegible] made in the bill of complaint herein, by [illegible] appear.

2d. That the [illegible] in the said bill [illegible] pretension of your orator, [illegible] in answer to the [illegible] thereof, will more fully appear by reference to the said bill of complaint, to which your orator craves leave to refer, and to make the same a part of this, his plea; which said matters and things your orator doth aver are sufficient to bar the said defendant from having any further or other answer to the said bill of complaint, or any part thereof, and he prays the judgment of this Honorable Court whether he shall be compelled to make any further or other answer to the said bill of complaint, and he prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

3rd. The prayer for special injunction was [illegible] & unconstitutionally omitted.

24 3rd. The name of the defendant in the prayer for process was accidentally and inadvertently omitted. That the defendant has demurred to the said bill of complaint & alleges [illegible] grounds of demurrer the errors & omissions aforesaid.

And defendant prays that he have leave to amend this bill of complaint in the respects mentioned.

E. B. BARNUM.

Sworn to before me this 17th day of December, 1874.

FRED. W. STEELMAN.
Comm'r, &c.

25. At a stated term of the circuit court of the United States for the district of New Jersey, held at the [illegible] in the city of Trenton, New Jersey, on the [illegible] day of December, 1874.

Present, Hon. John T. Nixon, Judge.

GEORGE CHAPPEL, comp't,
v.
WILLIAM ROBERTS, def't.

On reading & filing the affidavit of E. B. Barnum, solicitor for complainant herein, whereby it appears that [illegible] and omissions have occurred in the [illegible] of complainant's bill of complaint herein, by [illegible] of the [illegible] of said E. B. Barnum, counsel for the complainant,

26 It is ordered, & the said court doth hereby order, that the complainant have leave to amend the said bill of complaint on or before the next succeeding rule day, which will be the first Monday of January, 1875, in the particulars following, to wit:

First. By striking out the words [illegible] "on his reference" to & including the words [illegible] in the [illegible] bill of complaint.

Second. By inserting [illegible] the [illegible]

Third. By inserting the name of the [illegible] in the prayer for process of subpœna.

JNO. T. NIXON, J.

27. Order to amend &c. Filed Jan. 7th, 1874.

By Nixon, district judge.

The bill of complaint was filed in this [illegible] The defendant put in his [illegible] special statement.

[illegible] to amend his bill in accordance with [illegible]

grounds on which the demurrer was based. He thereby confesses the validity of the causes assigned.

Leave is granted to amend as proposed, upon the complainant's paying to the defendant the costs occasioned thereby & furnishing to him a copy of said amendments, free of expense, with suitable reference
28 to the places where the same are to be inserted.

In view of these amendments the complainant is allowed until the first Monday of February next to set down the demurrer for argument, giving at least ten days' notice to the defendant.

Amendments to bill of complaint under order.—Filed Dec. 31st, 1874.

Pursuant to the order entered herein on the 28th day December, 1874, allowing the complainant to amend his bill of complaint, he hereby amends the same.

First. By striking out the words "as by reference to the said letters patent, now in the possession of your orator, ready to be produced
29 as your honors may direct, will more fully & at large appear, & to which for greater certainty he prays leave to refer," in the third folio of said bill.

Second. By inserting after the word "also," on the second line of folio ten, the words "a special injunction pending this suit, restraining the defendant as aforesaid and"——

Third. By inserting after the word "him," on the third line of folio ten, the words "said William Boemer."

Dated December 29th, 1874.

GEORGE CROUCH,
E. B. BARNUM,
Solr for Compt.

30 *Demurrer overruled and def't to answer in 20 days.—Filed March 29th, 1875.*

And now, March 29th, 1875, it is ordered that the demurrer of the defendant of Nov. 25th, 1874, be, and the same is hereby overruled, and the defendant is required to answer the complainant's bill of complaint in twenty days from this date.

By the court.

S. D. OLIPHANT, *Clerk.*

Defendant's answer.—Filed April 9th, 1875.

The answer of William Boemer, defendant, to the bill of complaint of George Crouch, complainant.

31 This defendant, now and at all times hereafter, saving and reserving unto himself all benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties, and other imperfections in the said complainant's said bill of complaint contained, for answer thereto, or unto so much and such parts thereof as this defendant is advised is or are material or necessary for him to make answer unto, this defendant, answering, saith:

That he is informed, and believes it to be true, that upon application by the complainant, letters patent of the United States were granted and issued to the said George Crouch on the 20th day of
32 December, 1864, for an alleged improvement in sheet-metal, that

reissued on the 7th day of March, 1871. And this defendant says that he does not know and is not informed, save by said bill of complaint, whether or not said George Ostrom was duly and legally authorized to make the application for said reissued letters patent, and all matters required by law to be done prior to the granting of said reissued letters patent, and that he does not know and is not informed, save by said bill of complaint, whether or not said George Ostrom was the first and original inventor of the alleged improvement mentioned in said reissued letters patent, and that he does not know and is not informed, save by said bill of complaint, whether or not said George Ostrom was the first and original inventor of the alleged improvement mentioned in said reissued letters patent, and leaves the complainant to make all and such proof thereof as he may be advised is necessary.

33 And this defendant, further answering, says that he does not believe and is not informed, save by said bill of complaint, whether or not said George Ostrom now owns and holds said reissued letters patent, and leaves the complainant to make all and such proof thereof as he may be advised is necessary.

And this defendant, further answering, says that he is informed and believes it to be true that the said invention and alleged improvement of the alleged improvement in sheet metal described in said reissued letters patent, nor of any part thereof, said reissued letters patent dated March 7th, 1871, and referred to in said plaintiff's said bill of complaint, contains the description of a new and useful improvement in sheet metal.

34 And this defendant, further answering, says that he is informed, believes it to be true that the same invention and alleged improvement substantially the same principle and construction as mentioned in the letters patent mentioned in the bill of complaint as granted to [illegible] was, prior to the supposed discovery and improvement of the said George Ostrom, the patentee mentioned in said bill of complaint in the following letters patent of the United States:

1. Letters patent granted to [illegible] October 10th, 1865, numbered 50848, for an improved [illegible].

2. Letters patent granted to William H. Wiggin, September 5th, 1867, numbered [illegible], for an improvement in [illegible].

3. Letters patent granted to [illegible] March 17th, 1868, numbered 76609, for an improved portable [illegible].

35 And this defendant, further answering, says that he is informed, believes and is not informed, save by said bill of complaint, whether or not said [illegible] legally obtained [illegible] the complainant, and the said [illegible] another, to wit, by E. W. Perkins, of Hamilton, [illegible] using reasonable diligence in adapting or perfecting [illegible] which, in conjunction with one H. E. Perkins, [illegible] suits, made application for a patent for a right [illegible] the 4th day of September, 1866, prior to the date of [illegible] letters patent, and finally obtained a patent [illegible] the complainant's alleged invention on the [illegible] 1868.

And this defendant, further answering, says that in view of the foregoing [illegible] of E. W. and H. E. Perkins, [illegible] day of

36 September, 1866, for a patent [illegible] same invention as that described [illegible] of the [illegible] lawful right to [illegible] without [illegible] and that, therefore, [illegible] legally [illegible] same.

And this defendant, further answering, says that [illegible] of the said letters patent to E. W. [illegible]

37 day of December, 1868, the Commissioner of Patents had no lawful right to grant and issue to said complainant said re-issued letters patent, without first declaring an interference between the complainant's application for a reissue and the said letters patent of T. W. and H. K. Porter, and determining the question of priority of invention as prescribed by law and by the rules of the Patent Office, and that therefore the complainant's said reissued letters patent were fraudulently and unlawfully granted and issued, and are void and without effect whatsoever.

And this defendant, further answering, says that he is informed and believes it to be true, that the said George Crouch, patentee as aforesaid, was not the original and first inventor and discoverer of the said alleged invention and discovery, or of any material and substan-

38 tial part of the thing, or of the principle and combination patented in and by the reissued letters patent mentioned in the said bill of complaint; but that the same thing and the same principle and combination had been in public use, or on sale in this country, for more than two years before the complainant's application for his letters patent, and that the following-named persons had the prior knowledge of the thing patented, to wit:

Charles F. Ramge, Charles Bollier, Patrick J. Buckley, Adolphus T. Andrews, L. Philip Metzger, John Ryan, and David De Costa, all residing in Philadelphia, Pennsylvania, and having knowledge of prior use of the thing patented, in Philadelphia and other places.

William O. Watson, Benjamin Harrison, and Joseph Deane,

39 residing in Paterson, New Jersey, and having knowledge of the prior use of the thing patented, in Paterson and other places.

T. W. Porter and H. K. Porter, hereinbefore named.

Seth H. Hatch, residing in East Somerville, Massachusetts, and George A. Baxter, residing at Charlestown, Massachusetts, and having knowledge of the prior use of the thing patented, at Boston, Massachusetts, and other places.

G. B. Reed, of Portland, Maine, T. S. Brown, James Hamilton, sr., and James Hamilton, jr., Harvey O. Webb, and Charles H. Webb, all of New York, New York; Nathaniel Schmidt, of Newark, New Jersey, and John Ryder, of Brooklyn, New York, all having prior knowledge of prior use in New York, New Jersey, Maine, and Maryland,

40 and many others whose names are not now known to this defendant, but which he prays permission to disclose as soon as ascertained.

And this defendant, further answering, says that nearly all the show-stamps which he manufactures and sells are by him made and sold in accordance with his own invention, for which he had obtained letters patent of the United States, bearing date the 13th day of August, 1874, and numbered 154209, and that he has a right to make, vend, and sell his said show-stamps, which are not made in imitation of complainant's patent.

And this defendant, further answering, says that it is not true, as charged in the bill of complaint, that he applied to complainant for permission to make and sell show-stamps embodying the complainant's alleged invention, nor is it true that this defendant has received an increased and enormous statement of show-stamps made by him under the [illegible] as alleged in the bill of complaint.

41 And this defendant, further answering, says that he is not informed, save by said [illegible] and [illegible] answer, and cannot admit that the suit which the said complainant brought against H. Borden & Sons,

and R. Hartnett, solicitor of record for the complainant in the above entitled cause, and being duly sworn, doth depose and say that the allegations of this bill are true, and that the matters and things therein set forth, are within the knowledge of this deponent, and this deponent doth not believe that any interest whatever may be affected by the proposed decree.

42 And this defendant, further answering, denies that he has ever at all, in any way, infringed upon the complainant's supposed letters patent, or that he is now infringing upon the same, or intends so to do, either by making, using, or vending to others to be used, or otherwise, the said alleged invention, as alleged in the bill of complaint or otherwise.

And this defendant, further answering, denies that he has ever contrived to injure said complainant, or to diminish the profits, benefits, and advantages whatever, as charged in the bill of complaint.

And this defendant denies all and all manner of unlawful actings and intention, wherewith he is by the said bill charged, and all other matters and things in the said bill of complaint contained, as fully and effectually as if he had answered and denied each and every of the same separately and particularly; and this defendant, having fully answered, prays to be hence dismissed, with his reasonable costs and charges in this behalf most wrongfully sustained.

WILLIAM GOSNER.

A. V. Brumm,
Solicitor & of Counsel for Def't.

43 UNITED STATES OF AMERICA,
Southern District of New York, ss.:

William Hartnett, being duly sworn, doth say that he is the defendant named in the foregoing answer; that he has read the same, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he verily believes it to be true.

WILLIAM GOSNER.

Subscribed and sworn to before me this 6th April [illegible]

U. S. Court for the Southern District of New York.

44 Replication.—Filed April [illegible]

The replication of the complainant, Lucius Gosner, to the answer of William Hartnett, the defendant.

This complainant, saving and reserving to himself all manner of advantage of exception to the many errors, uncertainties, and insufficiencies in the said answer contained, for replication thereunto, or to so much thereof as he is advised is necessary for him to reply unto, he replies and says that he will aver and maintain his said bill to be true, certain, and sufficient in the law to be answered unto; and that the said defendant's answer is uncertain, untrue, and insufficient to be replied unto by this complainant; without this, that any matter or thing in the said answer contained is true, and that this complainant is ready to aver and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he hath already prayed.

other matter or thing whatsoever in the said answer contained,
46 material or effectual in the law to be replied unto, confessed, and
avoided, traversed or denied, is true. All which matters and
things this replicant is and will be ready to aver and prove, as this hon-
orable court shall direct, and humbly prays as in and by his said bill
he has already prayed.

E. B. BARNUM,
Complt's Solr.

47 And now, May 15th & 16th, 1876, this cause coming on to be heard on bill, answer, proofs, &c., E. B. Barnum, esq., was heard for the complainant & Arthur V. Briesen, esq., was heard for the defendant.

The court reserved its decision.

48 *Opinion.—Filed June 4th, 1877.*

By BIXBY, district judge:

This is an action for an alleged infringement of complainant's letters patent No. 82896, dated September 29th, 1868, & reissued March 7th, 1871, No. 4260.

The subject-matter of the patent is in the reissue described to be a strap "to confine a shawl or similar article in a bundle," & termed a shawl-strap. The schedule attached to & forming a part of the said reissued patent states that before the complainant's invention "straps had been used to confine a shawl or similar article in a bundle, & a leather cross piece with loops at the ends had extended from one strap to
49 the other, & above & attached to this leather cross piece was a handle. This leather cross-piece or connecting strap is liable to bend and allow the straps to be drawn toward each other by the handle in sustaining the weight. Hence the bundle is not kept in a proper shape, and the handle is inconvenient to grasp."

The invention is then stated to consist "of a rigid cross-bar beneath the handle, combined with suspending straps that are to be passed around the shawl or bundle, such straps passing thro' loops at the ends of the handle."

No question can be made but that the shawl straps, manufactured and sold by the defendant, are infringements of the complainant's reissue; they consist of a metallic cross-bar, with slots at the ends
50 for the reception of the straps, & which also connect the ends of the handle.

Several defenses are set up in the answer, but the only one necessary to consider is the first, to wit, the want of novelty & prior public use.

I had occasion heretofore to inquire into the validity of the complainant's patent in a controversy between the same complainant & Speer et al., reported in VI. Off. Gaz., 187, in which, as in this case, the principal defense turned upon the novelty of the invention. A prior public use was alleged & attempted to be proved. I then said, and now repeat, "that the patent is prima facie evidence that the patentee was the original & first inventor, and that any one who questions this assumes the burden of proof, & undertakes to show affirmatively that there
51 was a prior knowledge & use of the alleged invention under such circumstances as to give to the public the right of its continued use against the patentee."

The defence in this case has brought out many facts in regard to the

public use of the right complained of, should, pending the suit, be established, and thereafter, if such were the case, the complainant's patent would be void. There is no evidence which, in my judgment, establishes the complainant's claim, as above stated, to the exclusive use of the invention claimed in the specification of his patent. The bill must be dismissed, with costs.

Final Decree.—Filed September 21st, 1877.

This cause having come on to be heard upon the pleadings, proofs, and proceedings herein taken and had in said cause, and having been argued by counsel for the respective parties, and due deliberation, on consideration whereof, it is ordered, adjudged, and decreed, and this court doth hereby order, adjudge, and decree, that the complainant's bill of complaint herein be, and the same hereby is, dismissed, with costs.

BRO. T. DIXON, J.

53 United States circuit court, district of New Jersey.—In equity.

GEORGE CROUCH }
vs. }
WILLIAM ROSSER. }

COMPLAINANT'S PROOFS.

R. R. Reinam, solicitor, and of counsel for complainant.
A. V. Briesen, solicitor, and of counsel for defendant.

54 U. S. circuit court, district of New Jersey. In equity.

GEORGE CROUCH, COMPLAINANT, }
vs. }
WILLIAM ROSSER, DEFENDANT. }

Depositions on the part of complainant, taken this 5th day of July, 1877.

Present, R. R. Reinam, counsel for complainant; A. V. Briesen, counsel for defendant.
Adjourned to July 16, 1877, at 1 p. m.
Examination proceeded pursuant to adjournment, July 16, 1877.
Present, counsel as above.

GEORGE CROUCH, a witness called by the complainant, being duly sworn, was examined, as follows:

Q. 1. What is your name, age, residence, and occupation?
A. My name is George Crouch; my age is about 57; residence, New York City, and occupation a machinist.
Q. 2. Are you the complainant in this action?
A. I am.
Q. 3. Were letters-patent No. 67,005, dated July 23d, 1867, for an

improvement in shawl-straps, issued to you, and released to you March 7th, 1871, under the No. 4259?

A. Yes.

Q. 4. Are you the inventor of the improvements therein mentioned and described?

(Objected to as leading by Mr. Briesen, counsel for the defendant.)

A. I am.

Q. 5. Do you believe yourself to be the original and first inventor of these improvements?

(Objected to as immaterial.)

55 A. I do.

Q. 6. Look at the shawl-straps now shown you, and state whether the same in your judgment is an infringement of said reissued letters patent.

(Objected to as leading, and because the witness has not been produced as an expert, and because this matter should have been proved in evidence. At this point complainant's counsel offers in evidence copy of drawing with description thereof annexed, and specification, &c., and the original reissued letters patent are to be substituted therefor, to which counsel for defendant consents.)

At this point defendant's counsel agree that the shawl-strap shown the witness is of the kind and style which the defendant makes and sells, and that if said reissued letters patent under which this suit is brought are valid, this shawl-strap is an infringement of the first claim of the same.

At this point said copy of letters patent (reissued) dated March 7th, 1871, marked Complainant's Exhibit A. Shawl-strap referred to and offered in evidence marked Complainant's Exhibit B.

A. Yes, sir.

Being cross-examined by Mr. BRIESEN, the witness testified as follows:

X Q. 7. When did you make this invention of which you say you are the first inventor?

A. Two or three years prior to the patent of 1868; of course I cannot state definitely.

X Q. 8. Do you mean to say that you invented it as early as 1865?

A. I think it is likely I was experimenting upon it then.

X Q. 9. Where did you make your first experiment relating to the rigid bar shawl-strap?

A. In our own workshop.

X Q. 10. Where was that?

A. 352 and 354 West 41st street, in the city of New York.

X Q. 11. Relate the circumstances connected with your very first experiment on the invention.

A. I saw the few shawl-straps we then made were a failure. I then set to work to remedy that failure.

X Q 12. Who was present with you when you made your first experiment?

A. I make all my experiments publicly before my workmen.

(Answer objected to by the defendant's counsel as inconclusive.)

X Q. 13. Of what material was the first rigid bar made which you put into the shawl-strap?

A. Hoop-iron.

X Q. 14. Did you make any of wood; and if so, when first?

A. I don't think I made any of wood.

X Q. 15. Do you remember the names of any person who saw you experiment on the first rigid bar shawl-strap?

56 A. I have some of the workmen in the shop now who were in the shop then. I can name half a dozen persons who were in the shop then; but whether they saw what I was about until I had perfected it, I cannot tell.

X Q. 16. When did you perfect the invention?

A. 1868.

X Q. 17. You would not swear positively that your first experiments were made in 1865?

A. I think they were.

A Q. 18. Do you swear they were?

A. No, sir.

X Q. 19. Do you swear they were made as early as 1866?

A. I think I could.

X Q. 20. What makes you think you could?

A. Because we were making shawl straps at that time.

X Q. 21. Rigid bar shawl straps?

A. No, sir.

X Q. 22. When did you first make shawl-straps?

A. I do not know. We made them as we wanted them, according to the demand.

X Q. 23. How do you know you made them as early as 1866?

A. I do not know how to answer that question. I have no books here, nor anything to refer to. I know I made them the same as I make anything else that is demanded. Sometimes we made a few, and sometimes we bought a few; but we didn't buy any rigid bar shawl straps.

X Q. 24. Will you swear that you made rigid bar shawl straps in 1866 and sold them?

A. In '66 I made rigid bar shawl straps. I suppose they were sold; they went down to the store.

X Q. 25. Do you know how early you sold them in 1866?

A. No, sir.

X Q. 26. Do you know how many you made and sent to the store in 1866?

A. No, sir.

X Q. 27. Describe the rigid bar shawl strap that you made in 1866.

A. This was the original shawl-strap that was the common shawl-strap used at the time (the shawl-strap referred to marked for identification Complainant's Exhibit C); also this one, too (which was marked for identification Exhibit D); the first experiment was to rivet a small piece of iron from one rivet in Exhibit C to the other. I made that and found it somewhat a failure; this is 1866. I may have made in the latter part of '66 the iron bar from one end to the other, either a flat piece of iron or of steel. I often corrugated even the short pieces.

X Q. 28. Then your invention was virtually perfected in the latter part of '66, was it?

A. I didn't say so.

(Answer objected as not responsive.)

Question repeated.

A. I did in '68, but whether I did in '66—I must make an explanation: In 1866 I didn't value it highly; presumably I made nothing but the short bar at that time; but I will say, finding the short bar a failure,

my attention was called to making a bar from end to end, with the loops on top for straps to pass through.

57 On the redirect, the witness testified as follows:

Q. 29. Did you ever make shawl-straps with the wood cross-bar?
(Objected to as leading, and as calling for a contradiction to answer 14.)
A. Yes, sir.
Q. 30. When did you make them with the wood cross-bar?
(Same objection.)
A. Prior to the patent.
Q. 31. How long prior to the patent did you make them?
A. I don't know. I sent both kinds (metal and wood) on to Washington with the application for the patent.
Q. 32. In your answer to cross-interrogatory 21, you have stated that you did not make a rigid bar shawl strap in '66; and in answer to cross-interrogatory 24 you state that you did. Now what was the fact about that?
A. I made, in 1866, the bar from rivet to rivet.
Q. 33. And that did not answer your purpose?
(Objected to as already answered and as leading.)
A. No, sir.
Q. 34. Do you now think that you made the straps with the cross-bar from end to end as early as 1866?
(Objected to as already answered, and as leading and suggestive.)
A. I couldn't state positively.

Being recross-examined, the witness testified as follows:

X Q. 35. Why did you not give a truthful answer to cross-interrogatory 14?
A. I did.

Being further examined on the redirect, the witness testified as follows:

X Q. 36. How did you understand cross interrogation 14?
(Objected to as calling for an opinion.)
A. In my experimenting I made them of iron or metal. When perfected, and before patenting, I found wood would answer the same purpose, being cheaper.
X Q. 37. Then did you understand question 14 as relating to the experiments only?
A. Yes, sir.

Being further cross-examined, the witness testified as follows:

X Q. 38. So you never experimented with wood in relation to the rigid bar, did you?
A. In my experimenting, I supposed that metal would cover wood, being superior; that I must have made some in wood, or I wouldn't have patented the wood.

GEORGE CROUCH.

Subscribed and sworn before me,

CLARENCE R. CONGER,
Notary Public (419), *New York County.*

58 STATE OF NEW YORK,
Southern District of New York, ss:

I, Clarence R. Conger, a notary public in and for the city and county

of New York, do hereby certify that on the several days named in the depositions hereto annexed, I was attended at 133 Nassau street, New York City, by the counsel and witness aforesaid; that the said witness was duly sworn and examined, and the deposition was reduced to writing and read to the witness, and by him subscribed in my presence; and that the articles marked Exhibits A, B, C, and D were introduced in evidence in said cause during the taking of said deposition.

Dated July 16, 1875.

[L. S.]

CLARENCE R. CONGER,
Notary Public (419), *New York Co.*

United States circuit court, district of New Jersey. In equity.

GEORGE CROUCH, COMPLAINANT,
vs.
WILLIAM ROEMER, DEFENDANT.

Depositions on the part of complainant taken this 19th day of October, 1875.

Present, E. B. Barnum, counsel for complainant; A. V. Briesen, counsel for defendant.

Counsel for defendant waives notice for taking of depositions.

JOHN P. HAYS, witness called on the part of complainant, being duly sworn, testified as follows:

Q. 1. What is your name, age, residence, and occupation?

A. John P. Hays; over 50 years of age; residence, 23 E. 74th street, New York; occupation, saddlery hardware.

Q. 2. Where do you carry on business, and are you in partnership; and, if so, what is your firm's name?

A. Carry on business at 72 Beekman street, New York City; am in partnership; the firm's name is Harmer, Hays & Co.

Q. 3. How long have you been engaged in such business?

A. Well, say since 1839, or before.

Q. 4. Do you know Francis Meinberg; and, if so, how long have you known him?

A. I do, and have known him from ten to fifteen years; probably more.

Q. 5. Did you know him before he went into business for himself?

A. Yes, sir.

59 Q. 6. Did you have dealings with him after he went into business for himself? And, if so, state what.

A. Well, we were in the habit of buying fronts, rosett's, and headstalls, and possibly head parts for driving reins, and pad cloths.

Q. 7. Did you have occasion to call upon said Meinberg at his place or places of business while you were so dealing with him?

A. Yes, sir.

Q. 8. When did you first commence dealing with him?

A. Well, it is about fifteen years ago, I should say.

Q. 9. How long did you continue to deal with him?

A. Well, until within a period of two years; may be twelve months.

Q. 10. At what place or places of business have you visited him?

A. My first knowledge of him—I won't be positive of the street; but think it was 11th street, near Third avenue. I have known him in

about five places, as near as my memory serves me—say two places on the Fourth avenue and three places on the Third avenue. My impressions are, he told me he worked for Mrs. Bartlett.

Q. 11. Do you recollect visiting him when he had a place of business corner of Fourth avenue and Eleventh street?

(Objected to as leading, as the witness has not said that he knew Meinberg at Fourth avenue and Eleventh street.

Question withdrawn.)

Q. 12. Do you recollect where on Fourth avenue Meinberg had places of business?

A. Well, he had on the Fourth avenue; he was on a corner for a short time—one of those corners; then he was in the middle of the block; a man who made plaster Paris heads, &c., it was in that vicinity—close by.

Q. 13. Near what street or streets were these places on Fourth avenue?

A. I should say it was between Tenth and Thirteenth streets, on the east side of the street.

Q. 14. About what year or years was this?

A. Well, say five to twelve years ago; I want to put it somewhere; my impression is it is seven or eight years ago; I think it was nearer ten years than anything else.

Q. 15. While he was at these places of business were you frequently there and in his workshop?

(Objected to as leading.)

A. That would imply what you mean by "frequently;" sometimes I was there two or three times a week, but on the average once a month.

Q. 16. Did you ever see while there, at any time, any shawl straps of any description?

(Objected to as leading and incompetent.)

A. No, sir.

Q. 17. Had shawl straps been exposed for sale there, would you have been likely to see them?

(Same objection.)

A. Yes, sir.

60 Q. 18. Did you know of Meinburg's quitting business and going to California, and if so, what do you know about it, and when was it?

(Same objection.)

A. Well, in the first place I wanted to get some rosettes made; I went up to his place of business on the Third avenue; he appears to have married some German woman up there, and I went up to his place of business and she told me "that he had stolen [conversation objected to] about a thousand dollars' worth of hair and had run away," that's what she said.

Q. 19. From your knowledge of Francis Meinberg and of his character, would you believe him under oath in any matter where he was interested?

A. It gave me a very bad impression of him, what she told me; she said he was a worthless man, would not work and would not do anything.

Cross-examination:

X Q. 20. Who told you all this about Meinberg?

A. His wife; I suppose she was his wife; there were two ladies there, one younger than the other, and the elder of the two commenced it; they both spoke, and one corroborated the other.

X Q. 21. When was this?

A. My impressions are from three to five years ago; I have taken out a card of his which I had at my store.

X Q. 22. I don't want your impressions; when did that conversation take place?

A. Well, say from two to five years ago.

X Q. 23. You will swear it was not more than five years?

A. Yes, sir; I think I can.

X Q. 24. When next, after that conversation, did you see Mr. Meinberg?

A. After his return from California, if you can fix that date.

(Answer objected to.)

X Q. 25. Question repeated.

A. I don't believe that Meinberg was gone six months; he was not gone over twelve months.

X Q. 26. What transpired when next after that conversation you saw Mr. Meinberg?

A. Well, he came to the store and made a call on us; said that business was bad in California and he returned; that was his principal conversation to us; we had business transactions with him since.

X Q. 27. What kind of transactions?

A. Well, we bought fronts and rosettes of him; I should say, am positive of it.

X Q. 28. How did you find him in his business relations with you or your firm; honest or not?

(Objected to as immaterial and incompetent.)

A. Always been satisfactory, only bought goods of him; have no complaint to make as regards his dealings with us.

X Q. 29. Then so far as you know personally the character of Meinberg, would you believe him under oath?

(Same objection.)

A. From his own language and expressions to me, I would not believe him under oath.

X Q. 30. What language and what expressions do you refer to?

(Same objection.)

61 A. Well, his social character, if you might so put it; well, I don't know but that will apply to the whole of it.

X Q. 31. What do you know about his social character?

A. Only through himself.

X Q. 32. Well, what is that?

A. Well, his loose way of talking about women; about himself personally.

X Q. 33. Do you mean to say that you will not believe any man under oath that talks loose about women?

A. I would not say that.

X Q. 34. Then state positively and definitely why you would not believe Mr. Meinberg under oath?

A. Well, sir, from his language and expressions to me I would judge he had no respect for God, man, woman, or anything else.

X Q. 35. How did he express to you that he had no respect for man?

A. Well, if a man give you to understand that one woman is as good as another to a man, whether his wife or not, I have no confidence in a man of that kind.

X Q. 36. Is that why you would not believe him under oath?

A. From that and other expressions it would lead me to believe that.

X Q. 37. What other expressions?

A. Well, say loose expressions.

X Q. 38. Does your firm have any dealings with Crouch & Fitzgerald?

A. Yes, sir.

X Q. 39. To what extent?

A. Well, it has been very limited of late years; for instance, we were in the trunk hardware business; we are out of that now and have very few articles they use; the principal things they buy of us are buckles.

X Q. 40. How extensive are your dealings with them per annum?

A. I don't believe they have bought $500 worth of them this year. I could not say without looking at my books; years ago we used to sell them a good many goods.

X. Q. 41. When did you come to New York?

A. I was born in New York City.

X Q. 42. When?

A. Over 50 years ago; I think it was in 1816, Oct. 20th.

X Q. 43. When and where did you first establish in business?

A. 273 Pearl street, New York, about 1839; it will not vary much from that; saddlery, coach and trunk hardware business.

X Q. 44. How long were you at 273 Pearl street?

A. Not less than ten years.

X Q. 45. Where next did you establish your business?

A. At 72 Beekman, where we are now.

X Q. 46. When and where did you first see a shawl strap?

A. Well, the first positive recollection of them was when Mr. Crouch brought them into our store inside of ten years; I can' say positively, but that will cover.

X Q. 47. How long have you known Mr. Crouch?

A. I have known Mr. Crouch, say for about thirty years.

X Q. 48. What kind of a shawl strap did he first show you?

63 (Objected to as immaterial.)

A. Well, it was a shawl strap with a plate on it covered with leather.

X Q. 49. How do you know that there was a plate on it?

A. Had it from Mr. Crouch's word at the time; I never opened one myself, though we had thousands in the store.

X Q. 50. So you deal largely in shawl straps, do you?

A. Well, we may have $300 or $400 worth now in the store.

X Q. 51. Have you paid for them all?

A. I don't know.

X Q. 52. Will you swear that it is as long as ten years ago when Mr. Crouch first showed you shawl straps?

A. It is between five and ten years.

X Q. 53. And before Mr. Crouch showed you the shawl strap you did not know what a shawl strap is, did you?

A. I did not.

X Q. 54. Do you remember that Mr. Meinberg had a show case on the street when he had his shop in Fourth avenue?

A. I have a slight recollection of it, but am not positive of it.

X Q. 55. Do you remember the contents of that show case?

A. I know that he had nothing but those few things which I described before.

X Q. 56. How do you know that?

A. From seeing his place a great many times.

X Q. 57. But if you don't remember that he had a show case, how is it that you pretend to recollect what was in it?

A. Because I knew his business, what he worked at, what he made,

being in his place a great many times. He was in the habit of showing me everything he made.

X Q. 58. How large was that show case?

A. To the best of my recollection it might have been two feet square.

X Q. 59. How many shelves were in it?

A. I don't recollect anything about the shelves; I don't think there were any shelves in it.

X Q. 60. Will you swear that there were no shelves in it?

A. To the best of my recollection there was not; I don't recollect seeing any.

X Q. 61. On what floor was Meinberg's shop when on the corner of Fourth avenue and A street?

A. My impression, the entrance was on the side street, and in a basement; I mean the shop was in the basement.

X Q. 62. How many rooms did he occupy in that basement?

A. My business was with his store, not with the rooms he occupied privately.

X Q. 63. On what floor was his shop or store when he was on Fourth avenue in the middle of the block?

A. I should say on the second or third floor.

X Q. 64. How many rooms did he occupy then?

A. I was only in one room; I don't know how many he occupied.

X Q. 65. Will you swear that Meinberg, while in Fourth avenue, did not make or sell any but the four articles which you have named?

A. He might have made a pair of boots for all I know.

63 (Objected to as impertinent.)

X Q. 66. Question repeated.

A. As far as I know I did never see anything else there; he might have made a dog collar, or shawl strap, or anything else, but I never saw anything of that sort in his place.

X Q. 67. Did you see any belts which he had made?

A. Whether I have seen one or two ladies' belts there I don't know; I am not certain about it.

X Q. 68. Will you swear that Meinberg did not make shawl straps in Fourth avenue, or only that you did not see them?

A. No. I never saw any in any of his places in my life.

X Q. 69. In what places did you know him after he left Fourth avenue?

A. I think he got married and went to the Third avenue; that is my impression; I am under the impression that he was somewhere in the Bowery, near Broome street, before he went to Third avenue.

X Q. 70. Do you know that he moved from Fourth avenue to Fifth street, New York?

A. I have no recollection of his being in Fifth street; he might have been there; he moved from place to place.

X Q. 71. Did he not tell you that while living in Fifth street, his first wife and all his children died within ten days?

(Objected to as immaterial and incompetent.)

A. I have no recollection of his living in Fifth street; my impression is that his wife died in Eleventh street, or near that vicinity.

X Q. 72. So you never were in his house in Fifth street?

A. I would not say that; if he lived there I might have been in his house.

(Answer objected as not responsive.)

X Q. 73. Were you ever in his house in Fifth street?

A. I have no recollection about it.

JOHN P. HAYS.

Subscribed and sworn to before me this 19th day of October, 1875.
FRED. W. REBHANN,
Notary Public, N. Y. Co.

THOMAS W. JONES, produced as a witness on the part of the complainant, being duly sworn, testified as follows:

Q. 1. What is your name, age, residence and occupation?

A. Thomas W. Jones; age, sixty years next February; residence, I have none at present, but live in Philadelphia, my native place; occupation, saddler.

Q. 2. At what and by whom are you now employed?

A. At 135 Grand street, New York City, as a cutter.

Q. 3. In whose employ were you from 1844, up to or about the time of the war?

A. I was in the employ of three; first, Fairbairn & Knorr, then Knorr & Fuller, then Knorr, Niece, Moss & Co.

Q. 4. What was the nature of your employment then?

A. Well, I was supposed to be the foreman.

Q. 5. Were these three firms the same, one succeeding the other?

A. As far as I know they were; one succeeded the other.

64 Q. 6. When did the latter firm go out of business?

A. I could not tell the year; it was a little bit before the war broke out.

Q. 7. Did you know Patrick J. Buckley?

A. I did, sir.

Q. 8. When and in what employment?

A. As a boy under me, under instructions.

Q. 9. In the employ of those firms referred to?

A. Yes, sir.

Q. 10. What business was carried on by those concerns?

A. Saddlery and harness.

Q. 11. Were you familiar with the manufacturing business of those concerns?

(Objected to as leading.)

A. I think I was.

Q. 12. Did the manufacturing in their factory come under your supervision as foreman?

(Objected to as leading.)

A. Yes, sir.

Q. 13. State what articles were manufactured by those firms during your employment.

A. Saddles, bridles, and harness.

Q. 14. Do you recollect any other articles so manufactured?

A. Nothing that I can remember of any account; there may have been odd jobs; I remember some straps done to hitch up the dress.

Q. 15. Were there any shawl straps manufactured by those firms while you were with them?

(Objected to as leading.)

A. To the best of my knowledge I think not.

Q. 16. From your position then would you have been likely to know if any were manufactured?

(Objected to as leading.)

A. I should think I would; I had access to all parts of the building.

X Q. 17. When did Mr. Buckley first enter the business in which you were employed?

A. I could not tell the year.

X Q. 18. When, as near as you can remember?
A. Well, about 1848 or 1849, as near as I remember.
X Q. 19. How old was he when he first came to you?
A. I should judge about sixteen years, I think, from his appearance.
X Q. 20. How long did he stay in that business?
A. He was in the same place with me until the firm bursted up.
X Q. 21. You say that you "was supposed to be foreman;" what do you mean by that?
A. I had the instruction of the boys.
X Q. 22. How long did you instruct Mr. Buckley?
A. I suppose about four years.
X Q. 23. Were you his foreman after that?
A. No, sir.
X Q. 24. Were you afterwards employed in the same room as Buckley?
65 A. Not in the same room, but in the room above, one flight of steps above.
X Q. 25. Do you know Mr. Buckley as an honest man?
(Objected to as immaterial and incompetent.)
A. I do, sir.
X Q. 26. He swore that he made some shawl straps in the room under yours; will you swear that he did not make them?
A. To the best of my knowledge I never saw any.
(Answer objected to as irresponsive.)
X Q. 27. Question repeated.
A. To the best of my knowledge I don't think he did.
X Q. 28. Is that because you did not see them, or why?
A. I don't see why I should not have seen them; I had access to all parts of the building.
X Q. 29. Was it your habit to roam around the building?
A. It was not my habit to roam around; it was my habit to go around attending to my business.
X Q. 30. What was your business between 1857 and 1861?
A. I was supposed to be foreman of the place when I was employed for that purpose.
X Q. 31. Were you not a cutter?
A. I was cutter and foreman both; foreman is supposed to be cutter.
X Q. 32. But you was not Buckley's foreman at that time, were you?
A. I was his foreman.
X Q. 33. Did you in those years give out the work to him?
A. No, sir; he was a cutter at that time to the best of my knowledge.
X Q. 34. What was he employed at at that time?
A. He was employed cutting bridles, girths, stirrups, surcingles, saddle-bags; nothing else to my knowledge.

Subscribed and sworn to before me this 19th day of October, 1875.
FRED. W. REBHANN,
Notary Public, New York Co.

Examination adjourned by consent to October 20, 1875, at eleven o'clock a. m.

Depositions taken on the part of the complainant, taken this 20th day of October, 1875.

Present, E. B. Barnum, counsel for complainant; A. V. Briesen, counsel for defendant.

THOMAS W. JONES, examined, testified as follows:

X Q. 35. Who gave out the work to Buckley from 1857 to 1861?

A. Mr. Buckley was not carrying on at that time.

X Q. 36. What do you mean by that?

A. Mr. Buckley was under the employ of Mr. Niece.

X Q. 37. Well, who gave out the work to him?

A. Mr. Niece gave instructions to Mr. Buckley to give out the work.

X Q. 38. What instructions did Mr. Niece give to Mr. Buckley?

66 A. To give out certain work to the girls generally.

X Q. 39. Were you always present when Mr. Niece gave instructions to Mr. Buckley?

A. No, sir.

X Q. 40. Was there not a Mr. Hipple in that employ, too; and if so, what was his business?

A. Yes; he was a clerk.

X Q. 41. Did not he frequently give out work to Mr. Buckley?

A. No, sir.

X Q. 42. Are you sure of that?

A. I am sure of it.

X Q. 43. Why are you sure of it?

A. Well, it was not his place to do so.

X Q. 44. Might he not have done so without your knowledge?

A. I do not think it is probable.

X Q. 45. When did you first see a shawl strap?

A. Not until after the war.

X Q. 46. When first, and where?

A. In Philadelphia; I could not tell the year.

X Q. 47. When, as near as you can remember?

A. It was about 1869, I guess; near 1870, somewhere.

X Q. 48. And before that you did not know a shawl-strap, did you?

A. I did not.

X Q. 49. Describe the hitching-strap for ladies' dresses, which you have mentioned.

A. It was a half-inch wide and about three feet six inches in length.

X Q. 50. What was there about that strap to distinguish it from a plain strap?

A. Nothing any more than we took particular pains to polish the strap, and putting a covered buckle on it.

X Q. 51. Did Buckley make them?

A. He may have made a few, but very few.

X Q. 52. Did you ever see him make them?

A. I have, sir.

X Q. 53. Was Buckley a foreman there, too?

A. No, sir.

X Q. 54. How was it that he gave out work to the girls?

A. He was a bridle-cutter, and gave out the work to the girls.

X Q. 55. After leaving Knorr, Niece, Moss & Co., where next did you go?

A. I can't remember the man's name; it was on Market street, above 8th street, Philadelphia.

X Q. 56. How long did you stay with him?
A. About three months.
X Q. 57. Where next did you go?
A. I went to Horter, Peterson & Fenner, Decatur street, Philadelphia.
X Q. 58. How long did you stay there?
A. About a year.
X Q. 59. Where next did you go?
A. To Ricknor & Field, Fourth and Race streets, Philadelphia. I staid there about eighteen months.
X Q. 60. Where next did you go?
67 A. The next place I went to work was for Mr. Buckley; I was there about three months.
X Q. 61. Why did you leave him so soon?
A. I was sent to cut in New York; that is the reason I left.
X Q. 62. Who sent you?
A. Mr. Rotham sent for me.
X Q. 63. How long did you stay with him?
A. About four or five months, I judge.
X Q. 64. When did you leave him?
A. I left him on the 14th of February, 1872.
X Q. 65. Were you ever without employment between the time you left Knorr, Niece, Moss & Co. and the time you left Mr. Rotham, February 14, 1872? If so, for how long?
A. I was, sir; about ten months.
X Q. 66. Ten months altogether, or how?
A. Altogether.
X Q. 67. You have accounted for four years and three months of your time, between 1861 and 1872; what did you do the rest of the time during those eleven years?
A. After the firm failed they had a contract from the government for army work, and I worked at the bench during the entire war.
X Q. 68. When did you go to work for Horter, Peterson & Fenner?
A. I was at work for them when the war first broke out.
X Q. 69. And right after leaving Horter, Peterson & Fenner, you went to work for Ricknor & Field?
A. No; I went to work for Mr. Niece.
X Q. 70. When did you go to work for Ricknor & Field?
A. After the war.
X Q. 71. Well, when?
A. The first year the war was ended; I can't remember the year. I am a poor hand to remember years.
X Q. 72. When did you go to work for Mr. Buckley?
A. Three years ago, I think.
X Q. 73. Was that after you left Mr. Rotham?
A. Yes, sir.
X Q. 74. How long did you stay with Mr. Buckley?
A. I should judge about three months.
X Q. 75. What next did you do?
A. I came back to New York.
X Q. 76. And worked for whom?
A. For Mr. Rotham.
X Q. 77. How long?
A. Three months.
X Q. 78. How long did you work for Mr. Rotham before you went to Mr. Buckley?

A. I should judge, say four months or five months; somewhere in that neighborhood.

X Q. 79. Who did you work for next, after leaving Ricknor & Field?

A. Mr. Buckley.

X Q. 80. Did you work for Rotham before you worked for Ricknor & Field?

A. No, sir.

68 X Q. 81. You say that you reside in Philadelphia, and work in New York; how shall I understand that?

A. My family resides there in Philadelphia.

X Q. 82. Where is your present place of abode in this city?

A. In Elm street, between Grand and Broome; I don't know the number; I am only a lodger.

X Q. 83. Since when did you lodge there?

A. I have lodged there every time I came on except once; the last season I did not lodge there.

X Q. 84. You mean ever since you first came to work for Rotham, excepting last season?

A. Yes, sir.

X Q. 85. And you do not know the number of the place?

A. I do not, sir.

X Q. 86. What is the name of the party that keeps that lodging house?

A. Campbell—a carpenter or builder, I think.

X Q. 87. After you left Rotham, February 14, 1872, for whom did you work next, and where?

A. I think for Ricknor & Field.

X Q. 88. Are you not sure?

A. I am very positive I worked there next.

X Q. 89. Was that the first time you went to work for Ricknor & Field?

A. No, sir.

X Q. 90. When first did you work for them?

A. After the war was the first time I went to work for them; I worked for two or three times, and that time after leaving Rotham may have been the second or third time.

X Q. 91. How long did you work for them after leaving Rotham?

A. I should judge about seven or eight months, as near as I can remember.

X Q. 92. For whom did you next work?

A. For Rotham again; for three months, 15th June to 15th September, 1874.

X Q. 93. You say you left Rotham February 14, 1872, then worked for Ricknor & Field seven or eight months; where next did you work?

A. I may have worked a few weeks or months for Mr. Buckley, and then came back to Rotham again, as they sent for me every fall the last four years; these are the only three places I have worked, but I can't remember the dates.

X Q. 94. How often on the average did you go to Mr. Buckley's room at Knorr, Niece, Moss & Co's.?

A. It may have been one hundred and fifty times a day.

X Q. 95. How many rooms were there in that shop?

A. Five, sir.

X Q. 96. Describe their location.

A. They were on the first, second and third floors; the first had one room, the second had two rooms and the third had two rooms.

X Q. 97. On which floor did you work?
A. On the third floor.
X Q. 98. What was done in the other room of the third floor?
A. Harness department, cutting and making harness.
X Q. 99. What was done in the two rooms on the second floor?
69 A. One was cutting, and one where the girls done the stitching.
X Q. 100. What was done on the first floor?
A. Ware-room; no work done there.
X Q. 101. What did you do as cutter between 1857 and 1861?
A. Cut saddle stock.
X Q. 102. With your own hands?
A. Certainly, sir.
X Q. 103. How many did you cut in a day on the average?
A. That is something I could not answer.
X Q. 104. Why not?
A. They varied so much, one day would not compare with another.
X Q. 105. Why not?
A. Different qualities of work I cut.
X Q. 106. What is the largest number that you did cut in a day?
A. I never timed myself, never took no notice.
X Q. 107. Don't you know how many saddle-straps you did cut in a day?
A. No, sir.
X Q. 108. Were you in the habit of working steadily at the cutting of saddle-straps?
A. I was, sir.
X Q. 109. Were there not days on which you did nothing but cut saddle-straps?
A. No, sir; there were no days.
X Q. 110. Where were the boys employed, over whom you had supervision?
A. On the third floor.
X Q. 111. How do you know that the straps which Buckley cut out and which you called hitching straps for dresses, were not intended for shawl straps?
A. By the clerk from the store telling me that they were hitching-straps.
X Q. 112. How were they to be used for hitching dresses?
A. Buckle around the waist, and pulling up the dress for keeping it from dragging in the dirt.
X Q. 113. By what is such hitching-straps distinguished from a shawl strap?
A. One has a handle or bar, and the other has not.
X Q. 114. But the straps are the same, are they not?
A. One is a great deal lighter than the other.
X Q. 115. Which is the lighter?
A. Hitching-straps.
X Q. 116. How light is it? Give dimensions.
A. Hitching is a one-half-inch strap.
X Q. 117. And what would you give for the size of a shawl strap?
A. From $\frac{5}{8}$ to $\frac{7}{8}$ of an inch.
X Q. 118. Will you swear that Buckley never cut $\frac{5}{8}$ to $\frac{7}{8}$ straps during the four years preceding the war?
A. I could not swear that, but to the best of my knowledge he never cut them for a shawl-strap.

(Answer objected to as irresponsive and volunteered.)

X Q. 119. Question repeated.

70 A. I will swear positively that he did cut them, but not for that purpose.

X Q. 120. How could you know the purpose for which he cut these straps?

A. He was cutting them for bridles.

X Q. 121. Question repeated.

A. I should think I had a right to know, being foreman of the place and up and down frequently all the time getting things for the boys.

X Q. 122. But you had nothing to do with the work which Mr. Buckley did, did you?

A. No, sir.

X Q. 123. You say that shawl straps were no lighter that ⅝ to ¾ of an inch; was that the case before the war, or do you mean that they are now made of only that size?

(Objected to on the ground that the witness has stated that he only saw a shawl strap in 1869 or 1870.

Counsel for defendant objects to this mode of making suggestions to witness.)

A. Never seen any before the war, and that is the size I have seen them made, ⅝ to ¾.

X Q. 124. Which clerk told you the object of the hitching straps?

A. George Maurer.

X Q. 125. How came he to tell you their object?

A. He told me because we were doing quite a nice little trade in them, as I was foreman.

X Q. 126. Did he tell you so after the trade was established in them or before?

A. After they had established a little trade.

X Q. 127. Who cut them out?

A. Buckley and Mr. Mahafy.

X Q. 128. When did Mr. Mahafy work there?

A. He worked there the same time these things were in the harness room; he worked from 1854, I think, until after the war was over.

X Q. 129. When was Mr. Maurer a clerk there?

A. He was a clerk in the store until they dissolved.

X Q. 130. Please name all the articles on which you know Mr. Buckley to have been at work before the war.

A. Made bridles, made saddles, saddle-bags, girths, surcingles, stirrup leathers, and martengales, cruppers; that is about all that I can remember he made in that business.

X Q. 131. Will you swear that is all?

A. To the best of my knowledge I will swear to it.

X Q. 132. What do you mean by odd jobs in answer to 14?

A. Some mending or something of that kind might come in.

X Q. 133. Were the hitching straps odd jobs?

A. That was supposed to be an odd job in the saddlery business.

X Q. 134. Did you take particular notice of every odd job?

A. No, sir.

Redirect examination:

R. D. Q. 135. In answer to cross-question 23, you say you were not Mr. Buckley's foreman after you had ceased instructing him, and
71 in answer to cross-question 32, you say you was his foreman from 1857 to 1861; please explain your position there.

A. I was foreman of the room.
R. D. Q. 136. Did you consider the cutters as under your direction?
(Objected to as leading and as irrelevant.)
A. No, sir.
R. D. Q. 137. Who had the general superintendence of the factory?
A. Mr. Nieco.

Recross-examination:

R. X Q. 138. You say you were foreman of the room; which room do you mean?
A. The third floor.
R. X Q. 139. Then your duties as foreman of the third floor did not cause you to visit the second floor, did they?
A. 140. Frequently.
R. X Q. 140. How so?
A. To get material to keep the hands going.
R. X Q. 141. From whom did you get such material?
A. I went down and helped myself to them in the store-room.
R. X Q. 142. Store-room on the first floor?
A. First and second both.
R. X Q. 143. What was kept in the store room on the second floor?
A. Leather, tacks, buckles.
R. X Q. 144. Who worked in that store-room, if any one?
A. Nobody.

T. W. JONES.

Subscribed and sworn to before me this 29th day of October, 1875.
FRED. W. BERSHAM,
Notary Public, New York Co.

EMMA BARTLETT, a witness called on the part of the complainant, being duly sworn, testified as follows:

Q. 1. What is your name, age, residence, and occupation?
A. Emma Bartlett; my age, fifty-four years; my residence—I can hardly give you my residence; I have just moved, and am stopping at the Cosmopolitan Hotel in this city; my occupation, importer and manufacturer of saddlery hardware, harness, &c.
Q. 2. How long have you been engaged in that business?
A. Twenty-six years.
Q. 3. What is your present place of business, and how long have you been there?
A. Sixty-two Warren street, New York City, and have been there eight years.
Q. 4. Do you know Francis Meinberg; and, if so, how long have you known him?
A. I do know him, and have known him, I should think, about four years.
Q. 5. Do you know his reputation for truth and veracity?
(Objected to as without foundation.)
A. I know him to be a liar and a thief.
72 (Answer objected on same grounds.)
Q. 6. Question repeated.
(Same objection.)
A. I do; not for his truth.
Q. 7. What is his reputation for truth and veracity?
(Same objection.)
A. Very bad; he is the vilest man I ever knew.

Cross examined by Mr. BRIESEN:

X Q. 8. By what do you know his reputation?

A. I know that he robbed me and lied to me; he said himself he was a thief and a liar when I charged him with it, and he didn't care.

(Answer objected to as not responsive.)

X Q. 9. Question repeated.

A. Well, I have heard a great many speak very bad of him.

X 10. Please name each and every person that you heard speak very bad of him.

A. There are some in my employ; I couldn't exactly mention their names; there are some in my employ now who know him well; Mr. McCauley, John Moore, and several of my workpeople, and a Mr. Korn, a man that he used to work for; I don't remember more. At one time I had my place on fire, and he hid all about it, and I only found out by a policeman, and this was while he, Meinberg, was in my employ, and he told the girls and boys (counsel objected to the conversation) that he would kill them if they told me about it; I found it out by the police, and I asked him if there was a fire in his room last night; he replied, "Why?" for the police said there was a light, and it flickered and flickered until it went out, and he disguised it and covered it with pasteboard, and the policeman told me he saw some one walking in my room upstairs that night, and I accused him of being there, and told him the police had told me that somebody was seen in that room. He said if the police had told me that he would tell me something. I said he had to tell me now what it was, and then he acknowledged that the place had been on fire. I went over to the police station in Chambers street, and the officer came over and examined the premises, and the police wanted me to arrest him, and they thought it was very suspicious, indeed, that he would hide it and threaten to kill the boys and girls if they told me of it.

X Q. 11. Did you just now state to Mr. Barnum that you would like to see Meinberg in State's prison, or put him there, or words to that effect?

A. Yes, I did.

X Q. 12. Did you ever have a lawsuit with Mr. Meinberg?

A. No, sir.

X Q. 13. Did you ever have an interference suit against him in the United States Patent Office?

A. No, sir.

X Q. 14. Did you ever apply for a patent?

A. I did.

X Q. 15. When, and what was the invention?

A. I can't tell when, exactly, but it was on a bridle-front.

X Q. 16. Did you get that patent?

A. No, sir.

73 X Q. 17. Why not?

A. I could not say; I don't know.

X Q. 18. On what ground was it refused?

A. I could not say.

X Q. 19. Did you not now state you had a right to it?

A. Yes, sir.

X Q. 20. What made you think you had a right to it?

(Objected to as immaterial.)

A. Because he made them in my place while in my employ; stole the goods of me to make them, and spoilt all my machinery trying to do it.

X Q. 21. Who is that he in the last answer?

A. Mr. Meinberg.

X Q 22. Did he get a patent for that invention?
A. I believe he did.
X Q. 23. How came you to make application for the same invention?
A. I thought while I paid him and he used my goods I was entitled to it.
X Q. 24. Who was your attorney in applying for that patent?
A. I forget the gentleman's name.
X Q. 25. Where is his office?
A. In Washington, D. C.
X Q. 26. Did he report to you that Meinberg's invention was in the way of your getting a patent?
A. No, sir.
X Q. 27. How do you know Meinberg got a patent for it?
A. He told me so.
X Q. 28. When?
A. While he was in my employ.
X Q. 29. When was he in your employ?
A. Some three years ago, or thereabouts.
X Q. 30. How long was he in you employ?
A About a year, sir.
X Q 31. What was his duty in your employ?
A. He was foreman.
X Q. 32. Did you ask him to sell you that patent?
(Objected to as immaterial.)
A. No.
X Q. 33. Did you not offer to acquire it?
(Same objection.)
A. He came and offered it to me for $800, and I refused it.
X Q. 34. Did you make a counter offer?
(Same objection.)
A. No, sir.
X Q. 35. How came you to swear that that was your invention when knew it was Meinberg's invention?
A Because he invented it in my time and with my goods.
X Q. 36. But you did not invent it, did you?
A. I employed him to work to the best of his abilities for me.
(Answer objected to as not responsive.)
X Q. 37. Question repeated.
(Same objection.)
74 A. I did not, but I engaged him to do it.
X Q. 38. Did he use material for that invention with your consent?
(Same objection.)
A. No, sir.
X Q. 39. What makes you think that Meinberg is a thief?
A. Because I know he took goods out of my place, and acknowledged it.
X Q. 40. What goods did he take?
A. Leather, metal, and used to have people work for him at my expense; used to damn them and threaten that he would kill them.
X Q. 41. Did you ever hear him threaten any one that he would kill them; if so, whom?
A. Yes, sir; the girls and the boys. I heard him myself, and on many occasions they have left on account of his bad conduct.
X Q. 42. Can you name anybody whom he threatened, in your presence, to kill?

A. I forget their names, I keep so many people.
X Q. 43. How many?
A. From fifty to one hundred.
X Q. 44. What did Mr. Korn say to you about Mr. Meinberg?
(Objected to as incompetent.)
A. Said he was a very bad man.
X Q. 45. Is that all?
A. And he knew he missed loads of things while he was in his employ.
X Q. 46. Are McCauley and Moore in your employ?
A. Yes.
X Q. 47. How long has McCauley been with you?
A. Fourteen years.
X Q. 48. And how long Mr. Moore?
A. Ever since he was born.
X Q. 49. Had Meinberg access to your shop at night while your foreman?
A. He never had a key from me to go in.
X Q. 50. What was burnt by the fire about which you have testified?
(Objected as immaterial and incompetent.)
A. Some of the girls' clothes, a hole in the table two feet square, and began to burn the boards in the floor, and the fire must have been put out by somebody.
X Q. 51. How do you know he stole metal from you?
A. He acknowledged it.
X Q. 52. Did he pay you for it?
A. No.
X Q. 53. What kind of metal did he take, and how much?
A. Zinc; I could not say, as he wasted a great deal by experimenting.
X Q. 54. He acknowledged he took some for experiments. Is that it?
(Objected to as leading.)
A. Yes, sir.
75 X Q. 55. Was leather which he took also taken for experiments?
A. He would take it for everything; he would take a hide of leather, put it on his shoulder, and put his shawl over that and take it away.
X Q. 56. What kind of a hide was that?
A. A beef-hide of enamelled leather; and I accused him of it, and he acknowledged it; said he did not care a damn.
X Q. 57. Then he was rather truthful to you, was he not?
A. Well, I say he was a liar and a thief.
(Answer objected to as not responsive and unnecessarily vulgar.)
X Q. 58. So you did not believe him when he told you that he had stolen a hide?
A. Deed I did.
X Q. 59. Question 57 repeated.
No, sir.
X Q. 60. Why not, when he told you he took the hide and zinc?
(Objected to as immaterial and incompetent.)
A. You can't call a thief truthful.
(Same objection to answer No. 57.)
X Q. 61. Is that the best answer you can give?
A. That is the best answer I can give, thank you.

EMMA BARTLETT.

Subscribed and sworn to before me this 20th day of October, 1875.
FRED. W. REBHANN,
Notary Public, New York Co.

Examination of witnesses adjourned to October 21st, 1875.

Depositions on the part of the complainant, taken this 21st day of October, 1875.

Present, E. B. Barnum, counsel for complainant; A. V. Briesen, counsel for defendant.

JAMES EUSTACE, witness called on the part of complainant, being duly sworn, testified as follows:

Q. 1. What is your name, age, residence, and occupation?

A. Name, James Eustace; aged about forty-five years; residence, 347 West Fifty fourth street, New York City; business, 697 Broadway, New York; occupation, leather goods manufacturer.

Q. 2. How long have you been in such business?

A. In New York City since 1862.

Q. 3. Were you in such business prior to 1862, and if so, where?

A. Yes, sir; for 10 years previous in the city of Dublin, Ireland.

Q. 4. When did you first see a shawl strap?

(Objected to as not rebutting evidence.)

A. In the city of Dublin; about five years; about 1855 I made some myself there.

Q. 5. When you commenced business in this country did you become familiar with the state of the art in shawl straps here?

76 (Objected to as leading, without foundation, and not rebutting evidence.)

A. I became in this way, that I commenced to make them, and seeked for orders from my own samples.

Q. When you commenced such business what kind of shawl straps did you make?

(Objected to as immaterial.)

A. I made two or three different styles; they were nearly all the same kind; one was a plain handle with a loop, each end double-strap; another had a bottom cross only, part of leather, with a handle on top stretched on two straps, and the intent was to keep the straps in their position on the bundle. The other was made with three straps, same make as the one above, to makes it more perfect, to keep its position on the bundle; that was my idea; that was about the only kind I made; that is, of shawl straps; they varied in style and quality of finish.

Q. 7. Did you push the sale of your shawl straps; and, if so, when and how?

(Same objection and as indefinite.)

A. I did; I pushed the sale of them in New York City and its vicinity and in other cities; I sold them in Philadelphia, in Boston, in Providence, Hartford, New Haven, and I had some orders from Baltimore and further from that and other cities, and I have been personally present in the cities I have mentioned.

Q. 8. What kind of shawl straps were made and sold when you commenced business here?

(Objected to as without foundation, not rebutting evidence, immaterial.)

A. I am not able to answer that question; I cannot say; I cannot

recollect any styles of shawl straps that were sold here; they were new to a great many that I showed them to; I am under the impression that there was some; I don't recollect what kind they were.

Q. 9. So far as you know, to what extent were shawl straps made and sold in this country when you commenced business here?

(Same objection and as calling for hearsay.)

A. So far as I know it must be limited; I really cannot say anything positively on that subject as I was a stranger to the trade here, therefore I cannot say positively how the trade stood.

Q. 10. During the earlier years of your business here to what extent did you find shawl straps introduced into the trade?

(Same objection as to question 8.)

A. Very, very little.

Q. 11. Who, so far as you know, first introduced into this country a shawl strap with a cross piece under the handle?

(Same objection.)

A. I did myself, so far as I know.

Q. 12. To what extent did you sell shawl straps between 1862 and 1868?

(Same objection.)

A. Well, it couldn't be called a large extent—that is, in trade—it might have been large for shawls straps.

77 Q. 13. Did you make shawl straps a specialty in your business?

(Same objection.)

A. I did up to 1868; for four or five years I found a ready sale for them.

Q. 14. Why did you not continue to make them a specialty?

(Same objection.)

A. The houses refused orders to me on account of a patent strap which came out about that time and superseded them in a measure. I make some straps still.

Q. 15. What patent strap do you refer to?

(Same objection.)

A. The strap I speak of is the strap patented by the firm of Crouch & Fitzgerald.

Q. 16. What was the distinguishing feature of that patent strap?

(Same objection.)

A. The unyielding cross bar; it took me by surprise; the three straps that I introduced were for the very purpose; I was surprised that I did not see the advantage of the stiff bar before.

(The latter part of the answer objected to as volunteered.)

Q. 17. When did you first see a shawl strap with a rigid bar?

(Same objection.)

A. I won't answer; I can't say the exact date I saw it; the first strap I saw of that kind had Crouch & Fitzgerald's stamp on it.

Q. 18. How do you know that that strap superseded yours in a measure?

(Same objection.)

A. By still receiving orders from some people, and others refusing to take my strap on that account.

Q. 19. What do you mean by "on that account?"

(Same objection.)

A. The cross part being flexible as they could get them, which were not so; that is what they said.

Q. 20. Between 1862 and 1868 were you frequently in the cities named by you, and visiting the trade generally?

(Same objection and as indefinite and leading.)

A. I visited the trade constantly, and my visits down East were about three times a year; and Philadelphia about every six weeks or two months.

Q. 21. What classes of business did you visit?

(Same objection as to question 8.)

A. Gentlemen's furnishing goods stores, trunk and bag stores; a good many dry-goods stores took them, wholesale dry-good stores; A. F. Hawley of Boston, Jordan, Marsh & Co., of Boston, they took a great many; sporting houses and others; in fact I did not confine myself to any line in particular of customers; I had most every gents' furnishing store in the city, from John L. Davies & Co. down; they used to take 20 dozen at a time.

Q. 22. If shawl straps with a rigid cross-bar had been manufactured and sold by and in the trade previous to 1868, would you have been likely to know it?

(Same objection and leading.)

78 A. I think there is no doubt but that I would have known it; I am, as far as myself is concerned, certain that they were not.

Cross-examined by Mr. BRIESEN:

X Q. 23. Where were you born?

A. In Dublin, Ireland.

X Q. 24. What kind of shawl straps did you make in Ireland?

A. Pretty much the same as I made here; with the exception of the three straps; them I first made in this country.

X Q. 25. What were they called—shawl straps, or what?

A. No, sir; they were never called shawl straps in Ireland; they were called cloak straps; I used to make the mistake here sometimes, and call them cloak straps in my bills.

X Q. 26. When did you first hear the term "shawl straps?"

A. When I be offering them for sale they would say, they would make a nice shawl strap; I found that was the best name for them, in fact the most appropriate; it may have been in use, but I adopted it right away.

X Q. 27. Question repeated.

A. About the time I commenced to make them, sir.

X Q. 28. Well, when was that?

A. In the year 1862.

X Q. 29. Have you a partner?

A. No, sir.

X Q. 3 . Did you ever have one in this city?

A. No, sir.

X Q. 31. In what kind of shawl straps do you now deal?

A. Any shawl straps I make are the same I always made; I have made none with the rigid cross-bar.

X Q. 32. Question repeated.

A. Only in those I make; I have no retail store, and only sell those of my own manufacture.

X Q. 33. Did you ever hire a store?

A. Yes, sir, I did; 540 Broadway; I first commenced business in the store 478 Broadway; I didn't have the store myself, and got part of the store.

X Q. 34. During what time did you have the store 540 Broadway?

A. I occupied it for three years, from 1864 to 1867; I moved to another store immediately, and occupied that for three years also; that was No. 1 Great Jones street.

X Q. 35. How many shawl straps did you sell in 1862?
A. Well, to be within the mark, say, ten dozen a week.
X Q. 36. How many in 1863?
A. Well, I should say double that.
X Q. 37. How many in 1864?
A. About the same thing.
X Q. 38. Do you mean to say that stiff bar bundle-holders were not in use in this country before 1868?
A. As I said before, about the date, I am not positive, but the first I seen was Crouch & Fitzgerald's.
X Q. 39. Does that answer cover all kinds of bundle-holders that you saw?
A. I should say not; I am only talking of shawl straps.
X Q. 40. When did you first see a stiff bar bundle-holder?
79 (Objected to as immaterial and not proper cross-examination.)
A. I don't think I ever saw any until I saw those made by Crouch & Fitzgerald; in fact, I never saw any before of that make.
X Q. 41. State, as near as you can, when you first saw the Crouch & Fitzgerald strap.
A. Some time in 1868; I could not say the exact time; I saw it soon after it came out; I can't say the exact month or week.
X Q. 42. But you will swear it was in 1868?
A. Oh, yes, sir; I am positive it was in 1868.
X Q. 43. How do you know it was 1868?
A. My trade fell off in straps about that time.
X Q. 44. Did you ever make book holders before 1868?
A. I made book straps, various kinds, nothing that would be called a book holder.
X Q. 45. What do you understand by a book holder?
(Objected to as not proper cross-examination.)
A. I know of two or three arrangements in the market called by that name, some of wood, some of iron, with straps and cord.
X Q. 46. When first did you know of such book holders?
(Same objection.)
A. I cannot say the time when I first observed them.
X Q. 47. Was it before 1868?
(Same objection.)
A. I don't think it is so far back as 1868; I did not see or know of anything in the market at that time to my knowledge.
X Q. 48. Who did you deal with in Philadelphia before 1868?
A. Well, I can read off a few of the names I sold to. J. F. Cadmus, Edward Franklin, C. Oakford & Sons, George B. Bains, Joseph First, G. & A. Swartz, Winchester & Co., S. J. Phillips, Hirsh & Lobe, F. Eberhard, John Krieder, Doll & Co., G. R. Ritchie, Wm. Smythe & Sons, Joseph C. Grubb & Co., H. Simons; that is about all in Philadelphia I can think of.
X Q. 49. Did you deal with C. F. Rumpp of Philadelphia?
(Same objection.)
A. I don't recollect of ever calling upon him.
X Q. 50. Why did you not call on him?
A. I did not know of him, and don't know him now.
X Q. 51. Do you know that Mr. Rumpp was himself a manufacturer of shawl straps previous to 1868?
A. I did not, sir.
X Q. 52. Then you did not know the full extent of the trade in shawl straps previous to 1868, did you?

(Objected to for reasons above stated, and as argumentative.)

A. I did not know of this man you speak of.

X Q. 53. Question repeated.

(Objection repeated.)

A. I could not say that I knew the full extent of the trade; I did not know of everybody that made straps.

X Q. 54. Did you not, after you heard of the Crouch patent, say to others, that that was not a new invention, or words to that effect?

A. No, sir; I did not.

80 X Q. 55. What kind of leather did you use in the cross-piece of your shawl straps?

A. The firmest I could get.

X Q. 56. Which was the thickest?

A. I doubled leather to make it firm. They were doubly stitched to make them firm. The thickest was about ⅛ of an inch thick, I should say.

X Q. 57. And this you doubled in the cross piece, did you?

A. Most all the leather I used in cross-pieces was doubled.

X Q. 58. You say that the application of this cross-piece had for its object, was to keep the straps in their position on the bundle. Did you find such cross-piece to serve the purpose for which you had intended it?

A. I did, in a great measure.

X Q. 59. What do you mean by "a great measure"?

A. If the bundle was strapped very tight, it would hold remarkably well; if the bundle was light, it would hold very well. I did not see any defect before the other straps came. I could not say it did not answer the purpose, for it did answer the purpose so far.

X Q. 60. Would the straps with the cross-piece of double and thick leather, as made by you, be liable to be drawn together on a bundle?

(Objected to as incompetent.)

A. The two-strapped ones certainly would. The three-strap one would hold much better.

X Q. 61. Are you sure that the two-strap ones would?

(Objected to as incompetent, on the ground that the utility of the invention is not an issue herein.)

A. It depends upon the weight of the bundle

JAMES EUSTACE.

Subscribed and sworn to before me this 21st day of October, 1875.

FRED. W. REBHANN,
Notary Public, N. Y. Co.

HENRY KORN, witness called on the part of complainant, being duly sworn, testified as follows:

Q. 1. What is your name, age, residence, and occupation?

Henry Korn; age, 65 years; residence, Rahway, New Jersey; flower-making materials, No. 639 Broadway, New York.

Q. 2. Do you know Francis Meinberg? If so, how long have you known him?

A. I know him some twenty years.

Q. 3. Has he ever been in your employ? If so, when, and for how long?

A. I can't state how long; some twenty years past. I believe he worked for me about 10 years in all. He worked for me twice. I don't know whether it is ten years or not. I can't state exactly. It may be less.

Q. 4. What is his character for truth and veracity—good or bad?

(Objected to as without foundation and leading.)

A. It is rather bad than good. I cannot prove him any misdeed.

81 Cross examined by Mr. BRIERSON:

X Q. 5. Why rather bad?

A. I suppose I had him in my employ for so many years; I could not believe his word, would not give him much credit.

X Q. 6. Why would you not?

A. It is based on no facts, but on my judgment of him.

X Q. 7. What causes you to form such judgment?

A. My own idea.

X Q. 8. Why have you that idea; what is it based upon?

A. It is based on the kind of character he has.

X Q. 9. What do you know against his character?

(Objected to as incompetent.)

A. I can't tell you anything against his character. This is my own idea about him. If I had any transaction with him, I would not trust him.

X Q. 10. Has he not always served you honestly and faithfully?

A. I can't say anything against that.

X Q. 11. Have you formed your ideas about him from your own observation, or from what others told you about him?

A. From hearing said.

X Q. 12. Who spoke of him in a disparaging way? Name them all.

A. Well, those persons are not present here. It was long ago. It has not been said directly to me; I hear it through other persons.

X Q. 13. Do you remember the names of those who spoke bad of him to you?

A. I can't remember any, I paid so little attention.

X Q. 14. Was Emma Bartlett, of Warren street, N. Y., one of these persons?

A. No; I heard it from some one else that he worked there.

X Q. 15. Did you ever speak to Emma Bartlett about him (Meinberg)?

A. Some time ago; nothing of consequence.

X Q. 16. Did you tell her that you missed loads of things from your establishment while Meinberg was in your employ?

A. No; I did not.

X Q. 17. For how many years had Mr. Meinberg worked for you when you took him back into your employ the second time?

A. Not a very long time. I guess it was not over two years.

X Q. 18. Is Mr. Fitzgerald (here present) one of the persons who spoke to you in a disparaging way of Mr. Meinberg?

A. This gentleman came to me and asked me about his character; told me he had some difficulty with him. He asked me if I wanted to trust his word that I would believe him, and I said no.

X Q. 19. What did Mr. Fitzgerald say to you about Meinberg?

(Objected to as incompetent and immaterial.)

A. I understood he had to sue him. I did not ask what for.

X Q. 20. Did not Mr. Fitzgerald tell you that he (Meinberg) was a liar, or words to that effect?

(Same objection.)

A. Well, I guess he told me something about it.

X Q. 21. And he is the only person whose name you can remember who spoke bad of Meinburg, is he?

82 A. Yes, sir.

X Q. 22. While Meinberg was in your employ did he not often have entire charge of your establishment while you was sick with fever?

A. Yes, sir.

W. KORN.

Subscribed and sworn to before me this 21st day of October, 1875.

FRED. W. REBHANN,
Notary Public, New York Co.

Adjourned to October 25, 1875.

Depositions on the part of complainant, taken this 25th day of October, 1875.

Present, E. B. Barnum, counsel for complainant; A. V. Briesen, counsel for defendant.

GEORGE B. BAINS, witness called on the part of complainant, being duly sworn, testified as follows:

Q. 1. What is your name, age, residence, and occupation?

A. Name, George B. Bains; age, 56 years; residence 1532 Fairmount avenue, Philadelphia; occupation, trunk manufacturer.

Q. 2. Where is your place of business?

A. 402 Market street.

Q. 3. How long have you been in such business?

A. Since 1841—34 years.

Q. 4. Have you during that time been familiar with the state of the art in such business, and observant of its progress?

(Objected to as incompetent and not rebutting evidence.)

A. Yes, sir.

Q. 5. Have you dealt in shawl straps; and, if so, how long?

(Same objection.)

A. We have dealt in shawl straps (witness reads from memorandum); we bought shawl straps from Crouch & Fitzgerald in 1869, and of a man named Eustace, I should think for two or three years previous.

Q. 6. What kind of shawl straps did you deal in previous to 1869?

(Same objection.)

A. They were the ordinary straps then in use; it was a leather handle strap, some with a leather bar, some not, and two straps.

Q. 7. When did you first see a shawl strap with a rigid cross-bar?

(Same objection.)

A. The first that I recollect were those I purchased from Messrs. Crouch & Fitzgerald; that bill was bought Sept. 7, 1869.

Q. 8. To what extent were shawl straps made and sold prior to 1868?

(Same objection.)

A. Quite limited.

Q. 9. To what extent were they made and sold subsequent to 1868?

(Same objection.)

83 A. From 1868 the trade very much increased; prior to 1868 our sales did not, I think, exceed one hundred and fifty dollars per annum; after that they went to several thousand dollars in amount per annum.

Q. 10. To what, in your judgment, was this increase due?

(Same objection, and as calling for an opinion.)

A. The superior manner in which they were made, and their being adapted by the rigid bar to the uses for which they were intended.

(Answer objected to as volunteered.)

Q. 11. Do you know Charles F. Rumpp; and, if so, how long have you known him?

A. I know him, and I have known him not less than twenty-five years; ever since he has been in business.

Q. 12. What relations have you had with him during that time?

A. Business, buying goods of him.

Q. 13. To what extent have you bought goods of him?

(Objected to as immaterial and indefinite.)

A. Our dealings were not very extensive up to about 1861 and 1862, and after that our trade for a number of years would reach sometimes, say, $5,000 per year; that is, the goods I bought of him.

Q. 14. You say for a number of years; up to what time did your dealings with him reach those figures?

(Same objection.)

A. I would designate 1865, 1866, 1867, 1868; then our trade with him began to diminish, as we manufactured ourselves.

Q. 15. What class of goods did you buy of him during those years?

A. Satchels.

Q. 16. Is that all?

A. Satchels and traveling bags.

Q. 17. From 1861 to 1868, inclusive, were you in his place of business; and, if so, how often?

A. Well, I could not say how often; we had a general business with him; I suppose I was there when business required; I suppose I was there at least once a month.

Q. 18. While at his place of business during any of those years, did you ever see or have shown you any shawl straps with rigid cross-bars?

(Objected to as leading.)

A. No, sir.

Q. 19. Had shawl straps with a rigid cross-bar been on sale at his place of business, or in his show-cases, would you have been likely to have seen them?

(Same objection.)

A. Yes, sir.

Q. 20. Did you ever purchase any shawl straps with rigid cross-bars from Mr. Rumpp; and, if so, when first?

(Same objection.)

A. Yes; the first purchase was August 11, 1871.

Q. 21. Do you know John Rowen; and, if so, how long have you known him?

84 A. I know him; I can't fix date; but I should say I have known him, say, for ten or twelve years.

Q. 22. Where does he reside and what is his business?

A. He resides in Philadelphia; we know him as manufacturing school bags—leather school-bags.

Q. 23. Do you know his general reputation for truth and veracity?

(Objected to as without foundation.)

A. Yes, sir.

Q. 24. What is his general reputation for truth and veracity?

A. It is bad.

Q. 25. What price or prices did you pay Rumpp for the rigid bar shawl straps he sold you.

A. Ten dollars a dozen.

Cross-examined by Mr. BRIESEN:

X Q. 26. Do you carry on business in your name?

A. The firm is George B. Bains & Sons.

X Q. 27. How long has that been the name of the firm?

A. Since January, 1872; wait a moment; January, 1873; previous to that the firm was George B. Bains & Son.

X Q. 28. How long has that been the name of the firm?

A. Since January, 1868.

X Q. 29. What was the name of your concern prior to January, 1868?

A. George B. Bains.

X Q. 30. When did Mr. Rumpp first make shawl straps?

A. I don't know, sir; I know when we bought them first.

X Q. 31. When did Mr. Rumpp first sell shawl straps?

A. I can't tell, sir.

X Q. 32. Describe the shawl straps which Mr. Rumpp sold in 1867.

(Objected to on the ground that it does not appear that Rumpp did sell any in 1867.

Counsel for defendant replies that the above objection is not in good faith, and in view of complainant's admission that the entries in the Exhibits "Rumpp Account Book" are bona fide entries of sales of the goods therein mentioned, and that amongst such sales, sales of shawl straps in 1867 are recorded in said book.

Complainant's counsel responds that the admission referred to did not go to the extent stated by defendant's counsel; that the same was given at the instance and solicitation of defendant's counsel to save him the necessity of producing a witness, Andrews, and that said admission was not obtained in good faith, in that subsequent thereto said Andrews was produced and sworn as a witness in reference to said entries, and therefore complainant's counsel insists that said admission is of no force and is withdrawn.

Defendant's counsel protests against the withdrawal of the admission in question, at the present stage of the proceeding, and denies that said admission was obtained in other than good faith.)

85 A. I cannot describe them, as I am not aware of his selling them.

X Q. 33. Do you mean to swear that he did not sell any in 1867?

A. No, sir.

X Q. 34. When first did you see any school straps in Mr. Rumpp's place?

A. I don't know that I saw any previous to the time I purchased them of him.

X Q. 35. How is it that you did not see them prior to your purchase of them?

A. Well, I suppose because he hadn't them.

(Answer objected to as not responsive.)

X Q. 36. What is Mr. Rumpp's character for truthfulness?

(Objected to as incompetent and immaterial.)

A. It is good.

X Q. 37. Mr. Rumpp swore that he had shawl straps for sale, and sold them in 1866 and 1867. Will you swear that that is not true?

No, sir.

X Q. 38. How then do you account for the fact that you did not see shawl straps in his place prior to the date of your purchase, which was in 1871?

A. Well, I suppose for the fact that my attention was not called to them.

X Q. 39. To what part of his establishment had you access during your business calls?

A. The store.

X Q. 40. Where was that?

A. 118 North Fourth street, Philadelphia.

X Q. 41. How long has it been there?

A. Well, I would think that Mr. Rumpp had been there twenty years; perhaps more; I have no memorandum.

X Q. 42. Will you swear that his store has been at No. 118 North Fourth street as long as twelve years?

A. Mr. Rumpp occupied a store in the neighborhood; one store, and then rented the adjoining; when that took place I could not say; he was in the 118 or 116, and then took the other.

X Q. 40. When first did you see a shawl strap, and where?

A. The first shawl straps that were brought to our attention were by a man named Eustace; I think he was a resident of Massachusetts; that was in 1867 or 1868; I think it was 1867.

X Q. 44. And before that time, 1867 or 1868, you did not know what a shawl strap is, did you?

A. I don't think I did.

X Q. 45. What do you know with regard to the first use of rigid bar shawl straps. I mean when and by whom were the same first used, as far as your information goes?

A. I have no information preceding my first purchase of Crouch & Fitzgerald.

X Q. 46. Are you very positive of that?

A. Yes, sir.

X Q. 47. Do you remember that Mr. Roemer, here present, called on you last year?

A. No, sir.

X Q. 48. Did he call on you last year?

86 A. Either Mr. Roemer or his agent. It is a thing I don't recollect. My impression is that one or the other offered their straps for sale.

X Q. 49. Is your memory so poor that you cannot answer the last questions yes or no?

A. My memory is pretty good. I don't think he did.

X Q. 50. Was you in Newark, at the place of business of Riley & Lynch, last year?

A. Yes, sir.

X Q. 51. Do you remember meeting Mr. Roemer there?

A. I met Roemer at Riley & Lynch's; I cannot locate the time; it is not a great while. I think it was last winter.

X Q. 52. Please relate what transpired at that interview.

(Objected to as incompetent and immaterial.)

A. I have no recollection of anything transpiring.

X Q. 53. What was said by you at that interview with reference to rigid bar shawl straps?

(Same objection.)

A. I don't know that anything was said.

X Q. 54. Do you know a person by the name of F. H. Watt, of Philadelphia?

A. Yes, sir.

X Q. 55. Did you not tell Mr. Roemer that Watt had made rigid bar shawl straps at Columbus, Ohio, as far back as 1860, or words to that effect?

(Objected to on same grounds.)

A. No, sir; I never knew that Mr. Watt had made any shawl straps.

X Q. 56. Will you swear that you did not speak to Mr. Roemer about the testimony Watts could give with reference to rigid bar shawl straps?

(Same objection.)

A. I say, without any hesitation, I never did, for I never knew that Watt claimed to be a manufacturer of shawl straps.

X Q. 57. Did you ever have any interviews with Watt relating to rigid bar shawl straps?

A. No, sir.

X Q. 58. What are the names of the other members of your firm?

A. Joseph P. Bains, George B. Bains, jr.

X Q. 59. Did not one of your sons inform you that Watt knew of prior use of shawl straps?

(Objected to as incompetent and immaterial.)

A. No, sir.

X Q. 60. What do you know about Rowen that should lead you to call him untruthful?

(Objected to on the ground witness has not called him untruthful.)

A. Well, do you wish—well, in a variety of business transactions we have had with Mr. Rowen, we never could rely on anything he would state in reference to business.

X Q. 61. Give the particulars of the transactions wherein, as you say, he was untruthful.

(Objected to as incompetent.)

87 A. I don't think, without reference to our accounts, I could name, from present recollection, with the exception of the circumstances. We would purchase from Mr. Rowen a bill of goods. The money, in several cases, was paid for the goods on part delivery, and he failed to bring the balance of the goods. We would have difficulty in getting them, and we finally discontinued all business of that kind. The effect of that was that we now buy of him what we want, and pay for them on delivery.

X Q. 62. He always furnished the goods for which you paid him, did he not?

A. Yes, sir.

X Q. 63. Do you know whether it was intentional on his part to deceive you, or his poverty, that caused him to delay the furnishing of your goods?

A. I couldn't say.

X Q. 64. Did he intend to deceive you?

A. I think so, from the course of action we took in the matter.

X Q. 65. What was that?

A. In refusing to pay except on receipt of the goods.

X Q. 66. Did he not always bring the goods of his own accord?

A. Well, no, sir; we had to urge.

X Q. 67. Then, I understand you to say that he was slow in fulfilling his engagements; is that it?

A. No, sir; I did not understand it that way.

X Q. 68. Did he ever cheat you out of your money?

A. No, sir.

X Q. 69. Did you always get your money's worth from him?

A. Yes, sir.

X Q. 70. Does it never happen in your business that an order promised by a certain time cannot be delivered at just that time?

A. Yes; that frequently happens.

X Q. 71. And is that because you want to swindle your customers?

A. No, sir; but when you take the money for goods and then don't deliver them we think that puts it on another basis.

X Q. 72. But he always delivered the goods for which you paid him, did he not?

A. Yes, sir; after a time.

X Q. 73. What caused you to advance him money on an order?

A. Well, I don't know any special cause; I suppose in transacting business with men we think we can trust them, and find out we can't.

X Q. 74. Are you in the habit of paying for your goods before you get them?

A. No, sir.

X Q. 75. Why, then, did you make an exception in this case?

A. I suppose he asked it as a favor.

X Q. 76. How often did you grant him that favor?

A. I could not say; I have no means of information.

X Q. 77. Was it more than two or three times?

A. Yes, sir; I should say it was.

X Q. 78. And each time he was slower in filling the order than he promised, was he?

A. The representation made on the part of Mr. Rowen was that
88 he had the goods. A portion would be brought in and, as a favor, we would pay him for the amount of the whole goods.

(Answer objected to as not responsive.)

X Q. 79. Question repeated.

A. Yes, sir.

X Q. 80. After he had thus disappointed you two or three times, how is it you advanced him again?

A. We did not, we stopped.

X Q. 81. But you said just now that you had advanced him money more than two or three times, did you not?

A. I can't fix the number of times from recollection, but I do not think we should advance money more than two or three times under such circumstances.

(Answer objected to as not responsive.)

X Q. 82. Question repeated.

A. I did not fix any number of times; I have no recollection as to the number of times.

X Q. 83. If that is true, is your answer to question 77 untrue?

A. I don't think it is untrue, sir; for it might have been four, five, or six times.

X Q. 84. Did you just now whisper to Mr. Fitzgerald (here present); if so, what was said?

A. Well, I had no opportunity to say what I intended to say; you interrupted me.

X Q. 85. After Rowen had disappointed you two or three times in the manner described by you, how is it you advanced him money the fourth, fifth, and sixth times?

A. I do not know that I advanced Mr. Rowen money four, five, or six times.

X Q. 86. What, then, leads you to think that it might have been four, five, or six times?

A. I don't know that I have any cause to think so; the thing occurred several times, sufficiently so to cause us to change our mode of business with him.

X Q. 87. If you have no cause to think it might have been four, five,

or six times, why did you testify under oath that it might have been four, five, or six times?

A. Without a positive knowledge, I testified to the best of my belief in the matter.

X Q. 88. In one answer you say that you might have advanced Mr. Rowen money as often as four, five, or six times; in another answer you deny that you did that; what is your best knowledge in the matter?

A. I was not aware that I did deny it.

X Q. 89. Question 85 repeated.

A. Well, I don't know that we advanced him money on the fourth, fifth, and sixth times; I should think we did not.

X Q. 90. Question 88 repeated.

A. I could not definitely state the number of times; I have no doubt I could if I had access to my books.

X Q. 91. Will you please ascertain that from your books and report the result of your investigation at the adjourned day of your examination?

Mr. Barnum, complainant's counsel, instructs witness as follows: That the witness is at liberty to comply with the request or not.

89

A. Well, I will be responsible to Mr. Rowen for all I have said in regard to the matter.

(Objected to as not responsive.)

X Q. 92. Question repeated.

A. I may comply and I may not comply with it; it will be a matter for future consideration.

X Q. 93. Why may you not comply with it?

(Objected to as entirely immaterial.)

A. I have no reason to assign why I may comply or not comply at present.

X Q. 94. After Mr. Rowen had disappointed you a number of times, why did you continue to advance him money?

A. We did not, sir.

X Q. 95. After Mr. Rowen had disappointed you once, why did you continue to advance him money?

A. There may have been several causes; we may not condemn a man on the first trial.

X Q. 96. Did Mr. Rowen every single time represent to you personally that the whole amount of the order was finished and ready for delivery?

A. That has been the representation made, sir.

X Q. 97. And you will solemnly swear that that representation was made every single time that you advanced him money, will you?

A. No, sir; I wouldn't like to swear to that; I know we are not apt to do things quite as close as that comes to.

X Q. 98. Is that lack of promptness in Mr. Rowen the only thing you know to his disadvantage?

A. No, sir.

X Q. 99. Please state all you know against him.

A. I will give one case: he brought, it may have been within a year, two samples of leather to our factory to be sold—that is, to sell to us; they were left there; a person, purporting to be the owner, came and took them away; he stated that it was his property, and that Rowen was trying to cheat him out of it; that is all. I suppose it is not called to give his general reputation among the trade.

X Q. 100. Who is that party who said he was the owner of the two samples?

A. I don't know who the party was; we let him take the samples and heard no more of it.

X Q. 101. How large were the samples?

A. Two sides of leather.

Defendant's counsel requests an adjournment of the examination on the ground that he will not be able to conclude his cross-examination before Wednesday next.

The examination of this witness is adjourned to Monday, November 1st, 1875, at eleven o'clock.

The examination of witnesses generally adjourned to Tuesday, October 26, 1875, at eleven o'clock.

90 *Depositions on the part of the complainant, this 26th day of October, 1875.*

Present, E. B. Barnum, counsel for complainant; A. V. Briesen, counsel for defendant.

JAMES KENNELY, a witness called on the part of complainant, being duly sworn, testified as follows:

Q. 1. What is your name, age, residence, and occupation?

A. James Kennely; age, somewhere about thirty-eight, I guess; residence, 793 Second avenue, New York City; occupation, trunk maker.

Q. 2. How long have you been a trunk maker?

A. About twenty-two or twenty-three years.

Q. 3. Do you know John Rowen; and, if so, how long have you known him?

A. Yes, sir; I have known him about five years.

Q. 4. What relations have you had with him?

A. I worked for him.

Q. 5. When, and how long?

A. I worked for him part of 1869, and part of 1870; about six or seven months altogether.

Q. 6. What business did he carry on while you worked for him?

A. Trunk business.

Q. 7. What article did he make while you worked for him?

(Objected to as calling for hearsay as far as the question exceeds the witness' own knowledge.)

A. Well, he made trunks and bags.

Q. 8. Is that all the articles you recollect?

A. That is all I know of, and valises.

Q. 9. How many employés did he have while you worked for him?

(Objected to as immaterial.)

A. Well, one time he had two and another time I could not say exactly; I guess he had six or eight; when I worked for him alone he had two; when he went in business with Aronheimer he had six or eight, I guess.

Q. 10. While you worked for him did he make any shawl straps?

(Same objection as to question 7, and as immaterial.)

A. No, sir; not that I know of.

Q. 11. If he had made shawl straps while you worked for him would you be likely to know of it?

(Same objection, and as leading.)

A. Yes, sir.

Q. 12. Did he keep books of account while you worked for him?
(Same objection.)
A. No, sir; not that I know of.
Q. 13. Do you know his general reputation for truth and veracity?
(Objected to as incompetent.)
A. Well, it's not very good; yes, sir.
Q. 14. What is his reputation for truth and veracity?
(Same objection.)
91 A. Well, his reputation as far as business matters is concerned is not very good.
Q. 15. When and where did you last see him?
A. Well, he was on here not long ago; I think it was August; he came up to the factory to see me, where I work.
Q. 16. Did you have a conversation with him; and, if so, what was it?
(Objected to as incompetent and immaterial.)
A. Yes, sir; well, he came into the shop to see me, told me that he came on here to be a witness in a shovel-strap case; had a small conversation after that, I couldn't say exactly what it was; he told me and asked me if I could lend him a couple of dollars; he said he had lost his pocket-book and wanted to get home; I lent him a couple of dollars, not that day; he came around about two days afterwards; I gave him two dollars and seen him off home; then right after that he would come again in the fall; I asked him if he was doing anything; he said no, he was doing nothing just at present.
(Answer objected to as immaterial and not rebutting.)
Q. 17. While you worked for him did you ever use any shovel straps in his place?
(Objected to as immaterial and not rebutting.)
A. No, sir.
Q. 18. Did you ever hear anything said about them?
(Same objection, and as incompetent and hearsay.)
A. No, sir.

Cross-examined:

X Q. 19. When first did you hear anything said about shovel straps?
A. Well, I don't know exactly, I couldn't say; I heard about shovel straps before he came on to see me.
X Q. 20. Do you now work for Crouch & Fitzgerald?
A. Yes, sir.
X Q. 21. How long are you with them?
A. Going on three years.
X Q. 22. Where did you work between the spring of 1879 and the time you commenced with Crouch & Fitzgerald?
A. I worked for Bowen.
X Q. 23. All that time?
A. I worked in Newark with a man named Sennehill.
X Q. 24. All that time?
A. I worked for him part of the time and I worked for a man—I'll think of his name pretty soon, Cattanach, and I worked for a man named Osborn.
X Q. 25. With whom did you work right after leaving Bowen?
A. I worked for Sennehill.
X Q. 26. How long?
A. Somewhere about three months.
X Q. 27. Where did you go next?

A. I think Cattnacht was the next.

X Q. 28. Are you not sure?

A. I worked for a man named Thompson in Newark; I forgot him.

92 X Q. 29. With whom did you work right after leaving Smardell?

A. Thompson.

X Q. 30. Where is his place, and how long did you work for him?

A. His place was on Market street. I couldn't say exactly how long; I should judge about five weeks.

X Q. 31. Why did you leave him?

A. Well, he bursted up and I had to leave him.

X Q. 32. Where next did you work?

A. A man named Flanagan, in New York.

X Q. 33. How long did you stay with him?

A. About a month.

X Q. 34. What was Flanagan's business?

A. Trunk maker.

X Q. 35. Where next did you go?

A. I worked for Dennin & McNamara, trunk makers, about four months.

X Q. 36. Where next and how long?

A. Ewen & Quinn, trunk makers, about a week.

X Q. 37. Where next and how long?

A. Crouch & Fitzgerald, about three weeks.

X Q. 38. Why were you discharged by them?

A. I was not discharged at all.

X Q. 39. Where next, and how long?

A. At Cattnacht, trunk maker, in New York; stayed there about twelve months.

X Q. 40. Where next?

A. Osborn, trunk maker, in New York, about two months.

X Q. 41. Well, where next?

A. Crouch & Fitzgerald; stayed there ever since.

X Q. 42. What do you know about Mr. Rowen's reputation?

A. Well, I used to work for Mr. Rowen; have heard several parties say—talk bad of him.

X Q. 43. That is all you know about his reputation, is it?

A. That is about all I know about it.

X Q. 44. Did you never hear anybody speak bad of Crouch & Fitzgerald?

(Objected as immaterial and incompetent.)

A. No; I never heard anybody speak bad of them.

X Q. 45. Are you quite sure of that?

A. Yes, sir; pretty sure of it.

X Q. 46. Who spoke bad of Rowen?

A. Well, his hands.

X Q. 47. What did they say?

A. Well, they used to talk bad of him as a general thing; said he was not a man of his word.

X Q. 48. Who said that?

A. Different parties; I can't hardly recollect who they are; men who live in Philadelphia and know him.

X Q. 49. How do you know that they know him?

A. I am pretty sure that they know him; he is pretty well known there.

X Q. 50. Did he pay you your wages while you worked for him?

(Objected to as immaterial.)

96 A. Yes, sir.

X Q. 51. Did you find his word reliable so far as your personal knowledge is concerned?

(Same objection.)

A. Yes, sir.

X Q. 52. Are you married?

A. Yes, sir.

X Q. 53. Since when?

A. Married about three years; this is the second time.

X Q. 54. With said widow did you leave the city?

A. Philadelphia; she is dead about four years.

X Q. 55. For whom did you work at that time?

A. Bowen.

X Q. 56. Did he lend you money to pay for the funeral?

(Objected to as immaterial.)

A. Yes.

X Q. 57. Did you ever borrow money from him?

A. He owes money for this.

X Q. 58. For what amount?

(Same objection.)

A. Forty-eight dollars, I think.

X Q. 59. From whom did you borrow that money?

(Same objection.)

A. I did not borrow it from anybody; he went security for it.

X Q. 60. Do you mean that he went security for the payment of the undertaker's bill?

(Same objection.)

A. Yes; part of it.

X Q. 61. What do you mean by part of it?

(Same objection.)

A. Well, that was all.

X Q. 62. Have you since paid that bill in full?

(Same objection.)

A. No.

X Q. 63. So Mr. Bowen is still security for you, is he?

A. Well, I don't know; I have given up all hope until that shall cut.

X Q. 64. You don't know then that Mr. Bowen had to pay that undertaker's bill, do you?

(Same objection.)

A. I don't know whether he has or not; he owes him.

X Q. 65. What is the name of that undertaker?

(Same objection.)

A. I think his name is A. Hearne; I am not certain.

X Q. 66. When Mr. Bowen called on you this summer did he put request you to return to him that money which he paid for you to that undertaker?

(Same objection.)

A. No, sir.

X Q. 67. Are you an habitual drunkard?

(Counsel for complainant instructs witness to answer or not as he pleases.)

94 A. Am I? no, sir.

X Q. 68. Have you never been discharged for intemperance?

(Same objection.)

A. Once in my life.

X Q. 69. When did you first see a shawl strap?

A. Well, I could hardly tell you; Crouch & Fitzgerald is about the only place I have *I have* seen a real shawl strap.

X Q. 70. Of what country are you a native?

A. Ireland.

X Q. 71. When did you arrive in this country?

A. About twenty-eight years ago.

X Q. 72. With whom did you first work as a trunk maker twenty-two years ago?

A. I worked for old Poppy Strong, in the Bowery, cor. Bleecker street. I could not tell how long I was there, it is too long ago; I was a boy at that time.

X Q. 73. Did you work there as much as ten years?

A. No.

X Q. 74. Please name as near as you can remember all the persons in whose employ you have been up to the time you came to Mr. Rowen?

A. Well, that would take all day, I guess; Poppy Strong; then I gave you his son Dick, Richard; Crouch & Fitzgerald; Cattnacht; Andrew Copeland; Unrich, Philadelphia; Patterson, Philadelphia; Mattoon, of Philadelphia; Barnett, Philadelphia; Walker, Philadelphia; Vogler, Chicago; Einstein, Chicago; that is about all that I can remember.

X Q. 75. When did you first work for Crouch & Fitzgerald?

A. Well, I should judge about twenty-one or twenty-two years ago?

X Q. 76. Was it then that you saw shawl straps in their place?

A. No, sir.

X Q. 77. When did you first see shawl straps in their place?

A. When I came to work for them this last time?

X Q. 78. And before that you had not seen any shawl straps, had you?

A. Well, I might have seen them hanging round, but paid no particular attention to them; I never bothered about them.

X Q. 79. Do you mean that not until you came to Crouch & Fitzgerald the last time your attention had been called to shawl straps, is that it?

A. That is about the only time I ever took any notice about them.

X Q. 80. Give the name of the party mentioned in answer to question 68?

A. J. Lagowitz & Co., of Newark, New Jersey.

X Q. 81. When did you work for them?

A. I worked for them several times.

X Q 82. When last?

A. I should judge about seven years ago since I worked for Lagowitz.

Re-direct examination:

R. D. Q. 83. What other parties besides the hands of Rowen have you heard speak bad of him?

95 (Objected to as incompetent and already answered, and as entirely immaterial.)

A. Well, I have heard outside parties, business men; I don't know the names.

R. D. Q. 84. Name such of them as you remember?

(Same objection.)

A. Arnsheimer; I heard him speak bad of him; that was his partner; nobody else.

Recross-examination:

R. X Q. 85. What did you hear Aronheimer speak [illegible]

A. After they failed in business.

R. X Q. 86. Was that while you worked for them?

A. Yes, sir.

R. X Q. 87. What did Aronheimer say about [illegible]

A. Well, I can't hardly recollect what it was, only he expected the business would go different from what it did.

R. X Q. 88. Is that all he spoke about Bowen?

A. That is about all.

Re-redirect examination:

R. R. D. Q. 89. Do you not recollect anything else that Aronheimer said about Bowen?

(Objected to because the witness fully answered on that subject.)

A. No, sir; I do not recollect anything else.

R. R. D. Q. 90. Did not Aronheimer say that Bowen was a thief and had deceived him.

(Objected to as leading and as entirely improper.)

A. He said that he owed him money, and was looking after it to get it; that is all my answer.

[illegible]

Subscribed and sworn to before me this [illegible]

[illegible]

Notary Public, New York Co.

November 1st, 1875.

Cross-examination of George B. Bates resumed, pursuant to adjournment.

Witness desires to make some explanations and corrections of his previous testimony, and further states as follows:

I stated that we purchased or would give Mr. Bowen an order for goods; he could bring part in; we would pay him for the order and have difficulty to get the balance settled. The fact of the case that I had in my mind we sold him a bill of goods; we were to have payments for them in about bags; we had considerable trouble and delay in getting a settlement.

The mistake I made was in representing it as a cash transaction, whereas it was a trade transaction.

That is all I have to state in regard to that matter.

96 X Q. 102. Was there more than one cash transaction with Mr. Bowen?

A. I think there was, but I cannot definitely locate whether they preceded or succeeded this one.

X Q. 103. When did the transaction take place which you mentioned in your correction?

A. About four or five years since.

X Q. 104. Did Mr. Bowen deliver to you all the wheat bags which he promised to deliver?

A. They were eventually delivered to us after some delay.

X Q. 105. Are you still dealing with Mr. Bowen?

A. Yes, sir.

X Q. 106. You spoke about two samples of leather [illegible] question 89; please hear that answer read, and state when that [illegible] took place.

A. I stated within a year.

X Q. 107. Did you not purchase from Mr. Rowen, one of those two samples containing eight hides or thereabouts?

A. Not what I alluded to; they were taken away, those I alluded to.

X Q. 108. Do you mean to say that Mr. Rowen left with you samples of leather more than once?

A. Yes, sir; repeatedly.

X Q. 109. Of this you are positive, are you, and have personal knowledge?

A. Yes, sir.

X Q. 110. Did you buy leather from Mr. Rowen after the transaction referred to in your answer 99?

A. Yes, sir.

X Q. 111. Who was the party who represented himself to be the owner of those two samples, and how came you to deliver Mr. Rowen's property to him?

A. I do not know the party, sir; well, he represented it was his property.

X Q. 112. And it is your custom, is it, to deliver goods to all strangers who point to things left with you by your customers?

A. No, sir.

X Q. 113. Have you stated all that you know to discredit Mr. Rowen?

(Objected to as immaterial.)

A. My personal knowledge of Mr. Rowen as an individual, his private character—I should say here I have no knowledge of his private character; my knowledge is of his business character.

X Q. 114. Question repeated.

(Objection repeated.)

A. Witness asks: Must I know this personally, or can I give the result of inquiries and general reputation in business, as we would with any other man?

X Q. 115. Please answer the question as it is put, that is as to your personal knowledge.

(Same objection.)

A. I have stated all I know of my personal knowledge; I have other matters in my mind, but they are not definite.

(Latter part of answer objected to as not responsive.)

97 X Q. 116. Did you personally deliver those two samples of leather to the stranger who called for them?

(Objected to as immaterial.)

A. No, sir.

X Q. 117. Who did?

(Same objection.)

A. My brother Andrew, who has charge of the factory.

X Q. 118. Did he do so by your instruction?

A. No, sir.

X Q. 119. What was the value, about, of those two samples?

A. The samples would have been worth about six dollars; the lot of leather was to have been about ten to twelve sides of leather.

X Q. 120. Is your brother an employee of the firm?

A. Yes, sir.

X Q. 121. Did you buy rigid bar shawl straps from Mr. Rowen?

A. I don't know, sir.

X Q. 122. Would you not know if you had?

A. I think so.

X Q. 123. Do you mean to swear, then, that you or your firm did not buy shawl straps with the rigid bar from Mr. Bowen?

A. We have bought shawl straps, book straps, leather and cloth bags from Mr. Bowen; I never have any recollection of buying any rigid bar straps.

X Q. 124. Describe the shawl straps which you bought from Mr. Bowen?

A. A handle and two straps; that is the description.

X Q. 125. Will you swear that there was no rigid bar in them?

A. No, sir, I would not; I don't think there was.

X Q. 126. Do you know Theodore A. Freeman, of 907 Beach street, Philadelphia?

A. Yes, sir.

X Q. 127. Did you not tell said Freeman that you had put a rigid bar in a shawl strap before 1868?

(Objected to as immaterial, and not cross-examination.)

A. No, sir.

X Q. 128. What did you tell to said Freeman in regard to said matter?

(Same objection, and incompetent.)

A. I have no recollection of ever having a conversation with Mr. Freeman in regard to shawl straps; I never had any dealings with him until about six months ago.

X Q. 129. Nor did you have a conversation with Mr. Watt with reference to rigid bar shawl straps, did you?

(Objected to; same ejection.)

A. No, sir.

X Q. 130. When last did you see Mr. Watt?

A. Saturday last, Oct. 30, 1875.

X Q. 131. Did you not speak to him then about shawl straps?

A. No, sir; he was in on other business.

X Q. 132. Did you not speak to Mr. Watt about the testimony you have given in this case?

(Objected to as immaterial.)

A. Yes, sir.

98 X Q. 133. And yet you say that you did not speak to him about shawl-straps?

(Objected to as not being a question.)

A. Witness says this was last Tuesday; I asked him last Tuesday whether he had ever told me that he had made straps in Columbus; he did not appear to know whether he had or not. I am satisfied that he never told me; that we never had any conversation about the matter.

X Q. 134. Did not Watt assert that he had told you and others more than once that he had made rigid bar shawl-straps in Columbus, Ohio, before ever he came to Philadelphia, or words to that effect?

(Objected to as immaterial and incompetent.)

A. No, sir.

X Q. 135. Did you write a letter to Crouch & Fitzgerald since giving your last testimony; and, if so, why did you do so, and what did it refer to?

(Same objection.)

A. I wrote a letter, sir; in conversation with my cashier, the bookkeeper, I found it necessary to make corrections of statements which I have here done to-day. I also stated to Mr. Watt that the answers

which I had given in my testimony was correct as far as I was concerned. I also wrote about the leather business.

X Q. 136. What did you write about the leather business?

(Same objection.)

A. I wrote to the—I forget; I don't recollect whether it was in accordance with the testimony or whether to make corrections.

X Q. 137. What do you mean by saying that as to Mr. Watt your testimony is correct as far as you are concerned?

(Same objection.)

A. I meant that in the evidence I gave I stated positively I had no conversation with Mr. Watt in regard to shawl-straps, and that on having the conversation with him last Tuesday I was satisfied my testimony was correct.

X Q. 138. Did you call on him last Tuesday to inquire about the matter to which you have testified?

(Same objection.)

A. It was last Wednesday; I stopped at his store; he was not in, and I left word for him to call over, which he did.

X Q. 139. Did you not testify it was Tuesday?

A. Well, I don't recollect; it was Wednesday.

X Q. 140. Why did you call on Mr. Watt?

A. I felt some curiosity to know why I was questioned in regard to him in reference to conversations purporting to have taken place, and I wanted to satisfy myself if I had made a wrong statement in the matter.

X Q. 141. Did you sign an affidavit for Crouch & Fitzgerald on the 20th of May, of this year, before T. D. Ryan, notary public?

A. Yes, sir.

X Q. 142. Who was with you on that occasion?

A. Mr. Barnum and Mr. Fitzgerald.

X Q. 143. Were you present when on the same day Mr. F. H. Watt subscribed to an affidavit relating to the same matter of shawl-straps?

A. No, sir.

(Counsel for defendant gives notice that at the hearing of this cause he will read from and refer to the papers served on the witness Rumpp, in the suit of Crouch v. Rumpp, by E. B. Barnum, and dated May 20th, 1875.

Complainant's counsel objects to the reading of those papers or any part thereof, on the ground that they are immaterial and incompetent.)

X Q. 144 You have testified that your dealings with Mr. Rumpp became very extensive about 1861 or 1862, and that about 1865, 1866, 1867, or 1868 your trade began to diminish; are you not materially mistaken as to the time mentioned by you?

A. I don't think I have testified to that; from recollection I should say here from 1863, 1864, 1865, 1866, 1867, and 1868; then our trade began to diminish; that is, after 1868.

X Q. 145. Don't you know that you only commenced to deal with Mr. Rumpp in 1867, and in that year your purchases amounted to $719.21 or thereabouts, and that in 1872 your purchases reached the figure $7,677 or thereabouts?

A. I suppose I was wrong in giving any figures without reference to our books; I gave what I supposed to be a correct statement; I can't give the exact figures of all our dealings with Mr. Rumpp.

X Q. 146. Do you remember now that you did not commence dealing with him until 1867?

A. No, sir; our dealings preceded that.

X Q. 147. Did you buy right hear shawl straps from Mr. Rumpp?

A. Yes, sir.

X Q. 148. Why did you do so, if you knew that Mr. Cross had a patent upon them?

(Objected to as immaterial.)

A. My impression is that we bought those straps to fill orders; one customer of ours repeatedly sent in for a strap that Mr. Rumpp made called No. 3.

X Q. 149. And so you deliberately infringed Mr. Cross's patent to please that customer; was that it?

(Objected to as immaterial.)

A. I don't think there was any thought about it; we were necessitated to send him orders to be filled that we got from customers.

X Q. 150. When was this?

A. The first bill of straps of Mr. Rumpp I find was one dozen, August 8, 1871; I find entries at different times through 1872, quantities of 100, amounting to about ten dozen; the last that we purchased, or entered to purchase, was about a year ago, when we sent an order that we received, and word was returned to us from his place that they never made any more; Mr. Cramer, of Wilmington, Delaware, is the gentleman who ordered the goods.

X Q. 151. You say that you were in Mr. Rumpp's place of business quite frequently; at which of his three stores did you usually call?

A. I usually go through the—he has got three stores, you know, there is two on Fourth street, corner Appleton alley [illegible] sale fronts on the rear of those on Appleton alley; [illegible] was with the wholesale department, and I would go through the lower store into the rear store.

X Q. 152. By the lower store do you mean the retail store or the satchel store so-called?

A. I don't know how he designates his stores; I mean the one next door to the corner; the number is 116 Fourth street.

X Q. 153. Your business did not take you to the corner store, did it?

A. No, sir.

X Q. 154. And if there were shawl straps in that you would not know it, would you?

A. I should not think I would as I didn't know where he kept his shawl straps.

X Q. 155. How then come you to swear that you would have been likely to see them, had he had any?

A. Mr. Rumpp made shawl straps for sale, and had he any I suppose he would have shown us any that he had.

X Q. 156. Did you last week send to Mr. Rumpp to inquire whether he kept any music rolls?

(Objected to as immaterial.)

A. I did not myself; I heard my son saying something about music rolls; I did not myself.

X Q. 157. Since when does Mr. Rumpp manufacture music rolls?

(Same objection.)

A. Indeed I know nothing about when he commenced to manufacture now the article itself.

X Q. 158. Had music rolls been on sale at his place of business or in his show cases, would you have been likely to have seen them?

A. I may be very ignorant, but I must say I don't [illegible] what they are.

X Q. 159. But since you know all that he keeps and kept in his show cases and in his store, does it not follow that you would know what music rolls are, and that he kept them, had he kept them?

(Objected to on the ground witness has not stated that he knows all that Rumpp kept or keeps.)

A. Well, if I knew everything he kept in his store, and he kept music rolls, I should know that; but I do not know, nor do not make any pretensions to know everything Mr. Rumpp keeps in his store.

Examination was here adjourned to two o'clock p. m.

Examination resumed pursuant to adjournment.

X Q. 160. Are you positive that you had regular business dealings with Mr. Rumpp prior to 1867?

A. Well, I am positive; but if the statement is made that I had not; well, I am positive that we have had dealings with Mr. Rumpp prior to 1867.

X Q. 161. Did you purchase goods from and have an account with Mr. Rumpp prior to 1867?

101 (Objected to as repeatedly answered.)

A. Well, I am positive that we did.

X Q. 162. To what extent did you buy goods from him in 1866?

A. I can't state positively without referring to my books.

X Q. 163. State as near as you can remember?

A. I have no memory in the case.

X Q. 164. Then you don't remember, do you, that you bought goods from Rumpp in 1866?

A. I think I state correctly that we did buy; the amount I cannot state.

X Q. 165. Were your purchases from Mr. Rumpp cash dealings or did you have a regular account prior to 1867?

A. All our purchases have been on a regular account.

X Q. 166. Which was settled how often, prior to 1867?

A. I can't answer, sir.

X Q. 167. Did you preserve your accounts with Rumpp prior to 1867?

A. We have a record of all our dealings with Mr. Rumpp.

X Q. 168. And you solemnly swear that the accounts on record so preserved does actually show dealings with Mr. Rumpp during the years 1866, 1865, 1864, 1863, 1862, and 1861, or either of them, do you?

A. I can't tell when we began dealing with Mr. Rumpp, but I will fix the time of commencement about 1862 or 1863.

X Q. 169. Did you sell all the rigid bar shawl straps that you bought from Mr. Rumpp to Mr. Connor of Wilmington?

A. I could not say positively; we may not have sold all to him; I did not examine his account.

X Q. 170. By what do you know, or pretend to know, the general reputation of Mr. Rowen for truth and veracity?

A. The transactions with ourselves and information on general reputation given by persons with whom I am acquainted.

X Q. 171. Please name each and every person who spoke unfavorably in your presence of Mr. John Rowen?

A. Mr. Freeman, Mr. Watt, Mr. Ormsby, a firm in Third street, whose name I cannot recollect; I don't know that I have any more names, sir.

X Q. 172. What did Mr. Freeman say of Rowen, and give full name of Freeman?

A. I don't know his first name; he said he was not to be trusted, or words to that effect; that's what he said to me.

X Q. 172. Is he the same Freeman whose name I mentioned to you this morning?

A. Yes, sir.

X Q. 174. When and where did he say that about Mr. Rowen?

A. At our store; within a short time, sir; I will say within two weeks.

X Q. 175. How came he to say that?

(Objected to as immaterial.)

A. I don't know, sir.

X Q. 176. What is said Freeman's reputation for truth and honesty?

(Objected to as immaterial and incompetent.)

A. I don't know, sir.

182 X Q. 177. Does he owe you any money?

A. No, sir.

X Q. 178. What did Mr. Watt say of John Rowen?

A. Mr. Watt said Mr. Rowen was a very good fellow, but felt sorry he had such a very bad name.

X Q. 179. Is that Mr. F. H. Watt herein above mentioned?

A. Yes, sir.

X Q. 180. When and where did you say that?

A. It was made at our store, but I can't state the time; I paid no special attention to it at the time.

X Q. 181. About what was it?

A. I would say it was within a year.

X Q. 182. What did Mr. Ormsby say to you about Rowen?

A. Mr. Ormsby asked me—it is perhaps two years ago—if we had any dealings with Mr. Rowen; he remarked he had a very bad name among the trunk makers.

X Q. 183. And what was your reply to him?

A. I don't know that I made any reply, sir.

X Q. 184. Give Mr. Ormsby's full name and address.

A. H. C. Ormsby; [illegible] essentials; Chancery lane below Arch street is his place of business.

X Q. 185. From all that you know of John Rowen, would you believe him under oath?

(Objected to as immaterial.)

A. Yes, sir; I should.

X Q. 186. Have you made any settlement with Crouch & Fitzgerald for infringement of their patent in rigid hat shawl strap?

A. No, sir.

X Q. 187. Did they ask you to pay them royalty for such infringement?

(Objected to as immaterial.)

A. No, sir.

X Q. 188. Do you deal largely now in goods made by them; if so, state to what extent?

A. We sell their manufactured straps; the extent of our trade I could not tell you without reference to the books; I would suppose from recollection it would amount to over $2,000 per year.

Redirect:

R. D. Q. 189. Why were the samples referred to in your answer to cross-question 89 given up to the parties who [illegible]

(Objected to as calling for an opinion; as the witness [illegible] said samples were not given up by him or his order.)

A. Well, the reputation of Mr. Rowen was such as my brother handed them up to the men; he gave them to him.

(Answer objected to as volunteered, as witness cannot know why his brother gave up said samples.)

R. D. Q. 190. Did Rowen subsequently say anything to you about that property?

A. No, sir.

R. D. Q. 191. How long after that was it you saw him?

A. I think it was at least six months.

R. D. Q. 192. If John Rowen had sworn that he made rigid bar 163 shawl straps in 1864 and 1865, and in 1868, 1869 and 1870, and sold them during those years to various parties in Philadelphia and elsewhere, would you believe him?

(Objected to as incompetent and leading and calling on a witness to contradict himself.)

A. I have no doubt that Mr Rowen made those straps in the latter years designated; I should not like to say that I would not like to believe him under oath.

R. D. Q. 193. What do you mean by the latter years?

(Objected to as immaterial.)

A. I did not think it went back so far as that; I have no doubt he made them in 1870, 1871 and 1872.

(Answer objected to as hearsay and guess work.)

R. D. Q. 194. Do you recollect that C. F. Rumpp carried on his whole sale department in the basement of the premises now occupied by him?

Yes, sir.

R. D. Q. 195. Did you visit that wholesale department while it was so carried on in the basement?

A. Yes, sir.

R. D. Q. 196. When you so visited it which of his stores did you pass through to go to it?

A. The corner store, No. 118 North Fourth street.

Recross-examination:

R. X Q. 197. At the time these samples were left in your place by Mr. Rowen, was a certain McCabe in your employ?

A. Yes, sir.

R. X Q. 198. What was his office?

A. Journeyman.

R. X Q. 199. Where is he now?

A. He is carrying on business; Race, above Eleventh street, for himself.

R. X Q. 200. Do you not remember that you gave a written order to Mr. Rowen, directing McCabe to deliver said samples to him?

(Objected to as not recross and immaterial.)

A. No, sir; I never did.

R. X Q. 201. What do you mean by the words "I never did?"

(Same objection.)

A. I did not give a written order?

R. X Q. 202. May not one of your partners have given such order to McCabe?

(Same objection.)

A. Not unless I directed it, sir.

R. X Q. 203. Question repeated.

(Same objection.)

No, sir.

R. X Q. 204. May not your brother have given such an order to Mr. Cahe?

(Same objection.)

A. No, sir.

104 R. X Q. 205. Do you mean to say that the principal could not have been delivered without your personal order?

(Same objection.)

A. No, sir; I don't mean to say that.

R. X Q. 206. Who, if not your partners, nor your brother, could have delivered them without your order?

(Same objection.)

A. Well, no one could have delivered them without my order, with the exception of those persons named there.

R. X Q. 207. Do you mean to say positively that Mr. McCabe did not deliver and return those supplies to Mr. Hudson?

A. I do, sir.

R. X Q. 208. How do you know he did not?

A. Why, he had no right to do it; no more right than any other journeyman in the establishment.

R. X Q. 209. Question repeated.

A. Because he had no right to do it; we do not keep open house to let every one do as they please.

R. X Q. 210. Is that the best answer you can give to this question?

A. Yes, sir.

R. X Q. 211. By what do you know about [illegible]?

A. My brother stated to me what he had done.

R. X Q. 212. But your brother is not permitted to do [illegible] your order, is he?

A. He is authorized to exercise his own judgment; he [illegible] charge of the factory.

R. X Q. 213. Then your answer to question 206 was an [illegible]?

A. No, sir; it was all correct.

Subscribed and sworn to before me this 1st day of [illegible]

Defendant's counsel suggests to know how much time [illegible] sent desires to have to complete his rebuttal testimony on [illegible] latter time expires to-day.

Counsel for complainant replies that he will require to December 1, 1875, which is consented to by defendant's counsel.

Examination adjourned to November 4th, at 11 a. m.

Examination continued pursuant to adjournment [illegible] vember, 1875.

Present, counsel as before.

James Lamont, a witness called on the part of complainant, being duly sworn, testified as follows:

Q. 1. What is your name, age, residence and [illegible]?

A. James Lamont; age, thirty-eight years; [illegible] ty 65th street, New York City; occupation, [illegible] Fitzgerald.

165 Q. 2. Do you recollect of any sale of goods by Crouch and Fitzgerald to C. F. Rampp, of Philadelphia?
(Objected to as leading and immaterial.)
A. Yes, sir.
Q. 3. When first was such sale made?
(Same objection, and as incompetent.)
A. December, 1868.
Q. 4. What was then sold to C. F. Rampp?
(Same objection.)
A. Shawl straps.
Q. 5. What quantity and kind?
(Same objection.)
A. Three dozen, No. 1 we call them, made with the rigid corrugated bar steel, covered with leather.
Q. 6. Look at handle and bar, now shown you, and say whether that is what is known in your establishment as No. 1?
(Same objection, and as not rebutting.)
A. Yes, sir.
Q. 7. Was it so designated in your establishment in 1868?
(Same objection.)
A. Yes.
Q. 8. Who packed and shipped those straps sold to Rampp?
(Same objection.)
A. I packed them myself, with help.
Q. 9. Were the straps so sold, packed, and shipped to Rampp identical with the strap here produced?
(Same objection, and also as there is no strap produced.)
Question withdrawn.
Handle and bar referred to offered in evidence, and marked Complainant's Exhibit E, Nov. 4, 1875.
Q. 10. Did the straps so sold, packed, and shipped to Rampp have handles and bars identical with Exhibit E?
(Same objection as to question 8.)
A. Like this.
Q. 11. Did said Rampp pay for said straps; and, if so, how?
(Same objection.)
A. Yes; part cash, and part bill we owed him.
Q. 12. Look at bill now shown you, and state if that is the bill referred to in your last answer?
(Same objection.)
A. Yes.
Q. 13. What was the price charged to Rampp for the straps he bought?
(Same objection.)
A. Ten dollars per dozen, less ten per cent. discount.
Q. 14. Look at letter now shown you, and state if that is the one received from Rampp covering the remittance in settlement of the account testified to by you?
(Same objection.)
A. Yes, sir.
166 Bill referred to, and the letter also referred to, are offered in evidence, and marked respectively Complainant's Exhibits F and G, November 4, 1875.

[illegible]

Exhibit B.

[illegible]

Messrs. Creagh & Fitzgerald, [illegible]

Shipped 3 doz. [illegible]

Complainant's Exhibit B. November 4, 1878.

Exhibit C.

[C. E. Knapp, examination and signature]

Messrs. Creagh & Fitzgerald, New York:

Gentlemen: Enclosed I [illegible] bill of lading [illegible] date.

Please acknowledge and oblige yours,

C. E. K[illegible]

By J. W[illegible]

Complainant's Exhibit C. November 4, 1878.

E. W[illegible]

(Objected to as incompetent.)

Q. 11. How [illegible] signed, stamps did Creagh & Fitzgerald [illegible]

(Same objection.)

A. Two.

Q. 12. [illegible] B one of them?

(Same objection.)

A. Yes.

Q. 13. Describe the other.

(Same objection.)

A. It had a wooden box, with some kind of handle, and some length.

Q. 14. Did Creagh & Fitzgerald receive any [illegible] right here; and, if so, how many other like [illegible]

(Same objection.)

A. They [illegible]

107 Cross-examined by Mr. Stevens:

XQ. 15. How long [illegible] were here with Creagh & [illegible]

A. I [illegible]

XQ. 16. How many [illegible] were there?

A. [illegible]

XQ. 17. [illegible]

A. [illegible]

July, [illegible]

the box [illegible]

Wh[illegible]

with [illegible]

X Q. 22. When was the trade-mark now on Exhibit B first adopted by Crouch & Fitzgerald?

(Objected to as immaterial.)

A. Some time afterwards.

X Q. 23. What do you mean by that?

(Same objection.)

A. They had been using them some time before adopting the trade-mark.

X Q. 24. Cross-question 22 repeated.

(Same objection.)

A. I don't know the time.

X Q. 25. Was it as early as 1870?

(Same objection.)

A. I couldn't answer. I don't know the date.

X Q. 26. And yet you swear that the straps sold by Mr. Rumpp in 1868 were identical with Exhibit E?

(Objected to as no question, and further because witness has sworn to nothing of the sort.)

A. They were made like Exhibit E.

X Q. 27. What do you mean by that?

A. The same size, the same shape, and general appearance.

X Q. 28. How do you know they were the same size?

A. From having the steels stamped with a die.

X Q. 29. Did you stamp it?

A. No, sir.

X Q. 30. What has the stamping of the steel to do with the length of the bar?

A. As I understand it, we have a die made to stamp the steel a certain length and width.

X Q. 31. Did you ever see the die with which the bars were stamped in 1868?

A. No.

X Q. 32. Might not the bars in 1868 have been longer or shorter than Exhibit E?

A. I don't know of any change.

(Answer objected to as not responsive.)

X Q. 33. Question repeated.

A. Not to my knowledge any change in size.

X Q. 34. When did Crouch & Fitzgerald first make shawl straps with the right bar?

(Objected to as immaterial.)

106 A. I first saw them after I returned in 1868.

X Q. 35. When first did they make shawl straps with a flat rigid bar?

(Same objection.)

A. Some time after the corrugated rigid bar.

X Q. 36. How long after?

(Same objection.)

A. Flat wooden bars were made about the same time; I could not say how long after flat iron bars were introduced.

X Q. 37. Were flat iron bars used in shawl straps by Crouch & Fitzgerald as early as the summer or fall of 1868?

(Same objection.)

A. Not to my knowledge.

X Q. 38. Are you quite sure of that?

(Same objection.)

A. I don't remember [illegible]

X Q. 38. When do you [illegible]

(Same objection.)

A. 1866 I should say. The first I recollect.

X Q. 40. When were [illegible]

Crouch & Fitzgerald?

A. In the latter part of 1865.

X Q. 41. How do you fix [illegible]

A. [illegible] I said [illegible] we made said.

X Q. 42. Question repeated.

A. We sold some in the latter part of 1865.

X Q. 43. Question repeated.

(Objected to as [illegible] twice.)

A. From our books.

X Q. 44. What do you find on your books with regard to [illegible] manufacture and sale of the [illegible]

(Objected to as [illegible])

A. We entered them on [illegible]

X Q. 45. When is the [illegible]

(Same objection.)

A. Late in 1865.

X Q. 46. What were you in Crouch & Fitzgerald's [illegible] 1866?

A. Bookkeeper, after July.

X Q. 47. What in 1865?

A. Same [illegible]

X Q. [illegible]

A. In the [illegible] building, 377 and 379 West Forty-first street, New York city.

X Q. [illegible] the goods that were sent from that place [illegible] and by whom?

A. In the same [illegible]

Q. What is [illegible] goods.

X Q. 48. Who delivered the [illegible]

A. Oscar Bennett; was [illegible]

X Q. 49. [illegible]

A. Generally [illegible] others.

X Q. 50. Have you a [illegible] drop on the [illegible]

A. No.

X Q. 51. What [illegible] that showed [illegible]

A. I entered them as sold, and sent to Mr. [illegible]

X Q. 52. Question repeated.

A. I can't remember the words; said to C. F. [illegible] I think [illegible] dollars per [illegible]

X Q. 53. [illegible] did you make on your [illegible]

A. [illegible]

X Q. 54. How many [illegible]

A. One [illegible]

X Q. 55. How many [illegible]

A. I remember one.

X Q. 58. What was that for?
A. Ladies' shawl straps, and gents' shawl straps.
X Q. 59. Give the date of that entry?
A. I think October, 1869.
X Q. 60. Are you positive it was October?
A. To the best of my belief it was October; about that time, about October, 1869.
X Q. 61. Was it in August, 1869; yes or no?
A. No.
X Q. 62. How many ladies' shawl straps did you send at that time to Mr. Bunnpp?
A. I don't remember the number.
X Q. 63. How many about, and what was the price?
A. About one dozen; I think the price was $ dollars per dozen.
X Q. 64. Was Mr. Bunnpp the first to buy ladies' shawl straps from you?
A. I think not.
X Q. 65. How long before he bought them had they been made by Crouch & Fitzgerald?
A. Not long; I couldn't give the definite time.
X Q. 66. About how long?
A. I should say about a month; it may have been longer or shorter.
X Q. 67. Which sale did you refer to in answering question 18?
A. December, 1868.

JAMES LESTER.

Sworn to before me this 4th day of November, 1875.

FRED. W. [illegible],
Notary Public, New York Co.

119 November 4th, 1875.

OSCAR BARNETT, a witness called on the part of the complainant, being duly sworn, deposes as follows:

Q. 1. What is your name, age, residence and occupation?
A. Oscar Barnett; age, [illegible] years; occupation [illegible], New Jersey; [illegible] and occupation, [illegible] Hamilton [illegible], Newark, New Jersey.
Q. 2. Do you know the firm of Wyman & Miller, and if so, how long [illegible]?
A. [illegible] of that name, [illegible] Wyman or Wyman & Miller; I don't know which it was; [illegible] about the time and to the [illegible] of 1869.
Q. [illegible] of the partners of that firm, and if so, which?
A. [illegible]
Q. 4. [illegible]?
A. [illegible]
Q. 5. [illegible] or Wyman & Miller ever [illegible] anything made [illegible] and if so, when and what?
A. [illegible] & Miller, in 1868, December, 1868, and January [illegible]
[illegible] the witness [illegible]
[illegible] and [illegible]

A. I did; it was a copy of [illegible] Watson's dealings with [illegible] from my books, during [illegible] time.

Q. 7. When was that memorandum made?

A. To-day.

Q. 8. What entries did Miller & Watson, or Watson, have credit for you?

A. Malleable iron thumb nuts.

Q. 9. Is that all the entries you made for him in 1887 with them?

(Objected to as immaterial and incompetent and leading.)

A. Yes, sir.

Q. 10. Did you make any entries for their firm, or for Watson, in 1888?

(Objected to as leading.)

A. I think not.

Q. 11. Did you ever make any brass castings for that firm, or Watson, at any time?

(Objected to as immaterial.)

A. No, sir.

Q. 12. Do you know what those thumb nuts were to be used for?

(Same objections.)

A. They were to be used for bolt clamps.

Cross-examination by Mr. Dunlap.

X Q. 12. Since when do you know Mr. Watson?

A. I don't know Watson that; I knew him as the man I had dealings with him; I did dealings with him by mail.

111 X Q. 13. Where did you see him first and when?

A. I couldn't tell.

X Q. 14. Will you produce the memorandum from which you read your answer?

A. Yes, sir.

(Witness produces memorandum.)

X Q. 15. Is anything [illegible] in this memorandum?

A. In my handwriting.

X Q. 16. Did [illegible] it from any books, or did you?

A. He copied it from [illegible]

X Q. 17. Before [illegible] Watson, did you ever sell anything here for him for use on bolt clamps?

A. Not to my knowledge.

X Q. 18. Did you know Watson before he joined the firm of Miller & Watson?

A. I don't remember [illegible]

X Q. 19. Look at [illegible] above you, and [illegible] small number of the [illegible] tally sheets?

A. Not that I know of.

X Q. 21. Are you positive that you did not?

A. It would [illegible]

X Q. 22. Have you not [illegible] made for Mr. Watson [illegible] & Watson?

A. I think not.

X Q. 23. Did you answer question 4 from your memorandum [illegible] guided by the memorandum of your [illegible]

A. I answered partly from my memory and partly from [illegible] readings.

X Q. 24. Do you enter on your books a record of all castings made by you—even those of an experimental character?

A. Yes, sir.

X Q. 25. Since when is it your practice so to do?

A. Ever since I have been in business—August, 1862.

X Q. 26. Have you preserved all your books?

A. Yes, sir.

X Q. 27. What entries are there in your books relative to business done for Mr. Watson in 1866?

A. I think none.

X Q. 28. Why do you think so?

A. Because I have examined the books and found none.

X Q. 29. When did you examine them?

A. Within the last four weeks.

X Q. 30. Which books did you examine? Specify them all.

A. I examined my ledger and cash book.

X Q. 31. Did you examine your day books?

A. No, sir.

X Q. 32. To which books did you refer in answering question 24?

A. I refer to my ledger or cash-book; sometimes both.

112 X Q. 33. Are you positive that Mr. Watson did not pay you $1.65 on Tuesday, December 4, 1866, for castings of hook clamp?

A. No, sir; I am not positive he did not.

OSCAR BARNETT.

Sworn to before me this 4th day of November, 1875.

FRED. W. REBHANN,
Notary Public, N. Y. Co.

Examination adjourned to November 23, 1875, at 11 a. m.

FRED. W. REBHANN,
Notary Public, N. Y. Co.

United States circuit court, district of New Jersey.

GEORGE CROUCH, COMPLAINANT,
vs.
WILLIAM ROEMER, DEFENDANT.

Deposition on the part of complainant taken the 23d day of November, 1875.

Present, E. B. Bateman for complainant, A. V. Briesen for defendant.

WILLIAM H. GESNELL, a witness called on the part of complainant, being duly sworn, testifies as follows:

Q. 1. What is your name, age, residence, and occupation?

A. William H. Gesnell; occupation, furniture business; age, twenty-seven; residence, 1916 North Fifth street, Philadelphia.

Q. 2. Are you in business alone; or are you a member of a firm; and if the latter, what is the firm name?

A. I am not in business alone; I am in a firm. The firm name is J. P. Reifsnider, Son & Co.

Q. 3. Do you know John Bowen of Philadelphia, and if so, how long have you known him?

(Objected to as leading, and without foundation.)

A. Yes, I know him; have known him since last May.

Q. 4. Where did he live [illegible] when you first knew him?

A. In Grand [illegible]

Q. 5. Did you [illegible]

(Same objection.)

A. [illegible]

Q. 6. Do you know other people who know him?

(Same objection.)

A. Yes, sir.

Q. 7. Do you know his reputation for truth and veracity?

(Same objection.)

A. I do sir.

Q. 8. What is it?

(Same objection.)

A. Bad.

Q. 9. Would you believe him under oath?

(Same objection.)

A. No, sir.

Cross-examined by Mr. Bateman.

Q. 10. How long did he live in Grand [illegible]

A. Not more than two months to my calculation.

[illegible]

Subscribed and sworn to before me this 23d day of [illegible]

[illegible]

Defendant's counsel objects to the above deposition [illegible] that it does not appear that the person [illegible] witness, John Brown.

Recalled upon [illegible]

FRED. W. BENHAM,
Notary Public, N. Y. Co.

After recess [illegible]

[illegible] being duly sworn, testifies as follows:

Q. 1. What is your name, age, [illegible]

A. Alfred A. Cuttley, [illegible] Fifty-second street, New York City; occupation, [illegible] man in the employ of Orumb & [illegible]

Q. 2. Are you a son of the [illegible]

A. Yes, sir.

Q. 3. Do you know Francis Meisbach, and if so, [illegible] know him?

A. I know him, and first knew him on August [illegible]

Q. 4. [illegible]

A. He came into the store [illegible]

Q. [illegible]

A. [illegible]

Q. 6. What did he say, and who [illegible]

A. I had two men in the store at the time [illegible] players; he asked to see Mr. Cuttley [illegible] him that Mr. [illegible] the floor in the [illegible]

me he wanted to see him in relation to the loop on the bar; he wanted permission to use the loop; I told him the bar was an infringement on the patent. (Last sentence is objected as not responsive and volunteered.) He said he had a patent for the rigid bar shawl strap, and he pulled what I supposed to be, and he claimed to be, the patent out of his pocket; I asked him what the date of it was, and he got quite huffy about it; well, he said that he would show me the date of the patent soon enough; he told me to tell Mr. Fitzgerald to come and see him.

Q. 7. What was his manner in this interview?

(Objected to as immaterial and incompetent.)

A. He appeared to be quite angry.

Q. 8. Have you stated in substance all that took place at that interview?

A. Yes, sir.

Cross-examined by Mr. BRENNER:

X Q. 9. What loop is it he spoke about?

A. A loop on the bar connecting the handle to the bar, as described in patent No. 119223, dated Sept. 26, 1871.

X Q. 10. Did he show you some of his shawl straps to which he wished to attach said patented loop?

A. Yes, sir.

X Q. 11. Did you tell him that Crouch & Fitzgerald would not allow any one to make the rigid-bar shawl strap, or words to that effect?

A. Yes, sir.

X Q. 12. Did he tell you that rigid-bar shawl straps were old, and that your firm could not hold a patent on them, or words to that effect?

A. Yes, sir.

A. A. CROUCH.

Subscribed and sworn to before me, this 23d day of Nov., 1875.

FRED. W. KEBHANN,
Notary Public, New York Co.

WILLIAM H. GOSNELL recalled on part of complainants.

Q. 11. What business was John Rowen engaged in when you knew him?

A. In the sewing machine business.

Q. 12. Do you know of his having been engaged in any other business previous to that time?

(Objected to as calling for hearsay.)

A. Only what he had told me.

Q. 13. What did he tell you?

(Same objection.)

A. He told me that he had made hand valises, and bags, and trunks, and sold them to Hamil.

Q. 14. Did he tell you where he had carried on such business?

(Same objection, and as leading.)

115 A. Well, I won't be certain, but I think he told me Third street.

Q. 15. Did he tell you how long he had carried on such business?

(Same objection.)

A. Yes, sir, he did; he did not mention the number of years, but he said years.

Q. 16. Did you receive any promissory notes from him; and, if so, state who were the makers?

(Same objection.)

A. I did receive notes from [illegible] Hazell, in the [illegible] deceased by Freeman & Bowen. I think Freeman's name was [illegible]

Q. 17. What [illegible], if any, were made by Bowen in reference to the abovenamed three notes?

(Some objection.)

A. In what way, sir?

Counsel responds as to their business character.

(Some objection.)

He said he sold goods to Hazell, and got these notes in payment.

Cross-examined by Mr. Bozeman:

X Q. 18. When first did you receive a note from Bowen?

A. In May, 1878.

X Q. 19. How came you to take it?

A. Why, because he represented it to be Hazell's note, and we knew Hazell had dealt with him, and knew him to be good, and we took the note for the goods.

X Q. 20. When last did you take a note from Bowen?

A. The latter part of [illegible], 1878.

X Q. Were these notes actually drawn by Hazell?

A. As far as we know, sir, they were.

X Q. 22. Why would you not [illegible] Mr. Bowen's notes?

A. Because he told me positively there [illegible]

X Q. 23. What were they?

A. One was, he wished me [illegible] ting some money off a note [illegible] would be in our place of business [illegible] and he didn't come at all. [illegible] protested he made a [illegible] know the exact amount) which [illegible] of us. I think we offered [illegible] the goods on that day, and [illegible] the goods and the [illegible] delivered the [illegible] he made two [illegible] us the money for [illegible] go for a couple of [illegible] and he didn't come, and I think [illegible] any more.

X Q. 24. Do you know what [illegible]?

A. Yes, sir, [illegible]

116 X Q. 25. How much money [illegible]

A. I think about $[illegible].

X Q. 26. If he had paid you that money would you [illegible] under oath?

(Objected to incompetent.)

A. No, sir.

X Q. 27. Why not?

A. Well, [illegible] to me that he was [illegible]

X Q. 28. What [illegible] money notes?

A. Well, in selling him goods and buying his [illegible] him.

Redirect examination by Mr. [illegible]

R. D. Q. 29. Did you notice any [illegible]

(Objected to as leading, and as not relevant.)

Counsel for complainant withdraws question, believing objection well taken.

WM. H. GOSNELL.

Subscribed and sworn to before me this 23d day of November, 1875.

FRED. W. REBHANN,
Notary Public, N. Y. Co.

Examination adjourned to November 26, 1875.

FRED. W. REBHANN,
Notary Public.

NOVEMBER 26, 1875.

Examination continued pursuant to adjournment.

Present, counsel for both sides.

JAMES J. MORRISON, a witness called on the part of the complainant, being duly sworn, testifies as follows:

Q. 1. What is your name, age, residence, and occupation?

A. James J. Morrison; age, 41 years; residence, Eagle Hotel, Philadelphia; occupation, manufacture of trunks, at 224, Callowhill street, Philadelphia.

Q. 2. How long have you been engaged in such business?

A. About six years.

Q. 3. What was your business prior to that time?

A. Boots and shoes, wholesale and retail.

Q. 4. For how long a time?

A. Since 1853.

Q. 5. Were you familiar with the retail boot and shoe trade in Philadelphia prior to 1869?

(Objected to as leading and immaterial.)

A. Yes, sir.

Q. 6. When did you first see shawl straps?

(Same objection, and as present without foundation.)

A. I might have seen them, but I never handled any till I went into the trunk business.

117 Q. 7. Prior to 1869, so far as you know, did retail boot and shoe dealers deal in shawl straps in Philadelphia?

(Same objection.)

A. Not to my knowledge.

Q. 8. Do you know John Bowen, of Philadelphia?

A. Yes, sir.

Q. 9. How long have you known him?

A. I couldn't bring that to memory exactly; five or six years.

Q. 10. What has been his business, and at what place or places has he carried it on since you have known him?

A. Trunks, shawl straps and bags; he had a place up town; I don't know exactly where it was; he had a place on Third street, below Callowhill, third and fourth floors; one on Second street, below Callowhill, a store, and one on Second street, a store, above Vine, or opposite Wood street; and he had another factory in Girard avenue, corner, I think, of Mather street.

Q. 11. Have you had business relations with him?

A. Yes, sir.

Q. 12. Do you know other people who know him?

A. Yes, sir.

Examination adjourned to December 3, 1875, at 1 P.M.

Examination continued pursuant to adjournment. Counsel present as before.

ISIDOR BENDER, a witness produced on the part of the [illegible], being duly sworn and examined, testified as follows:

Q. 1. What is your name, age, residence and occupation?

A. Isidor Bender; age [illegible]; residence, 118 West Thirty-second street, New York; occupation, [illegible].

Q. 2. Are you in the employ of [illegible]? If so, how long have you been in [illegible]?

A. I am; [illegible] years.

Q. [illegible]

A. [illegible]

Q. [illegible]

A. [illegible]

Q. 6. [illegible] how long [illegible]?

A. [illegible]

Q. 7. [illegible]

A. [illegible]

Q. 8. [illegible]

A. [illegible]

Q. 9. [illegible]

A. [illegible]

Rumpp's attention to the matter, and have a statement prepared for me, giving the number of shawl-straps that they had made, imported, and on hand that were infringements on Mr. Crouch's patent shawl straps; he asked me to explain the claims in this patent; I told him a rigid bar to keep the straps from coming together; a rigid cross-bar; the loops attached to the handle above the bar; he asked me what I meant by a rigid cross-bar; I told him a stiff bar that would not bend enough to let the straps come together; he took down a dictionary and showed me that "rigid" meant "not to bend;" he told me that all straps that they had had would bend; I told him that a "cross-bar" was rigid, but still I could bend it, and asked him to let me see some of his straps, and I would tell him whether they were infringements or not; he looked for some, also some one else at his request, but reported they could not find one, and I then left, after making an appointment to meet Mr. Rumpp at 3 o'clock that afternoon.

(All that part of the answer after the word "bookkeeper" objected to as incompetent, and not rebutting evidence, and hearsay.)

Q. 10. When did you next visit Rumpp's store?

A. That afternoon.

Q. 11. Was there any one with you on either or both of these visits?

A. There was on both.

Q. 12. Who was it?

A. Edward Crouch.

Q. 13. On this second visit who did you see?

A. Mr. Rumpp, Mr. Andrews, several others whose names I don't know.

119 Q. 14. State as concisely as you can all that occurred on the occasion of this second visit.

A. I stated to Mr. Rumpp that Mr. Crouch & Fitzgerald had sent me on to get a statement from him in regard to his infringements on Mr. Crouch's patent shawl strap, and make a settlement with him for such infringements; that Mr. Fitzgerald would have been on sooner, but had waited until it was possible for me to come, and I wished from him a statement of how many shawl straps he had imported or made or had on hand that were an infringement on Mr. Crouch's patent; he asked Mr. Andrews to take down a dictionary and show me; Mr. Andrews replied that "he had already shown it to me;" he then asked me what royalty the firm wanted; I told him "fifty cents a dozen;" he then commenced and cursed or tirades against the firm, Mr. Crouch in particular; said they were mean, contemptible men; that it was a swindle, piracy, me, for Mr. Crouch to get a patent on such a little thing that anybody could make, and said he felt like kicking me out; he went on this way for some time; I can't recollect all the language he used; I waited until he seemed to be exhausted, and tried to explain my position, the firm's position, and the position he had taken in the matter, but he interrupted me again in the same manner; I told him that he would not give me a chance to explain anything to him; that I had come in there on a business visit; that he was a gentleman, and that he was not using me right; he still kept on; I asked him fifty cents a dozen royalty, when the firm had settled at thirty-six; I asked him if he was willing to settle at that rate—thirty-six cents per dozen; he said he was; I then said, "Look, Mr. Rumpp, I will show you that the firm are not so mean and pig-eyed as you make them out to be; will settle with you for this time, at thirty-six cents per dozen per [illegible]; he said that would [illegible] I said that I had nothing more to say to him about the matter; I wanted; I told him what I had to say, and to go to the devil with Mr. An-

shown; I asked him if I could sell him some [illegible] at the samples I had with me; he asked me if I had [illegible] goods and I showed him some [illegible] saying I could [illegible] he thought one dozen would not; that he would be glad to get them from us with our [illegible] I then [illegible] had no [illegible] about fifty dozen of short [illegible] dollars, and said he would [illegible] was eleven [illegible] Mr. Anthon called his attention to the [illegible] more on the way and he asked me [illegible] said to him, [illegible] do you think of [illegible] as you say you [illegible] goods [illegible] settle for them when [illegible] them that I did [illegible] five on the condition [illegible] to New York to me to [illegible]

120 me [illegible] kind of [illegible] there was [illegible] goods and the [illegible] handed to me signed. Mr. [illegible] give me a check for the [illegible] and $ when he paid for the [illegible]

(Some objection to [illegible] Q. 15.)

Q. 15. [illegible] statement [illegible]

(Objected to as [illegible] and not [illegible] evidence.)

A. That is the [illegible]

Statement offered in evidence and marked Complainant's Exhibit 5, December 2, 1875. F. W. B.

Exhibit I.

[C. F. Bragg, manufacturer and importer of fancy leather goods.]

Statement of shoulder straps [illegible]

11 gross sort'd.

Imported to date 26 gross sort'd, 3 gross of which are sliding straps, pr. str.

All above straps however had the [illegible]

Complainant's Exhibit I, December 2, 1875.

(Some objection to the introduction of this [illegible])

Q. 16. Did you make an allowance to [illegible]

pending in the U. S. circuit court for the eastern district of Pennsylvania?

(Objected to on the ground that the affidavit should be produced and identified, and also as incompetent in this suit, and not rebutting evidence.)

A. I did.

Q. 27. Do you recollect what you therein stated was the amount of goods sold by you to Rumpp in September, 1874?

(Same objection.)

A. I do.

Q. 28. Was your statement therein contained true?

(Same objection, and as leading.)

A. No, sir.

131 Q. 29. State how you came to make that statement.

(Same objection, and as immaterial.)

A. The goods I sold Mr. Rumpp were mostly fine goods, and the amount in my mind was mixed up with the amount of goods I sold Heinz & Son of Philadelphia. I thought then about, thinking his was what I stated in my affidavit, because they were his goods, not referring at that time to any book or anything.

Cross-examined by Mr. Burnett:

(Defendant's counsel calls for the production of the affidavit referred to for the purpose of cross-examining the witness thereon.)

X Q. 30. Where were you born?

A. St. Louis, Missouri.

X Q. 31. How long did you remain there?

A. Till about the middle of November, 1865.

X Q. 32. In what business were you in St. Louis?

A. In clothing business and photographing; that is all I remember.

X Q. 33. How long were you in the photographing business, and with whom?

A. Less than a year; most of the time with Henry Tobias. For a few months for myself.

X Q. 34. When was that?

A. I don't know the date, but it was the year that "Johnson swung around the circle," as they call it.

X Q. 35. In which year did you first enter business?

A. I think it was the year 1862. I am not positive.

X Q. 36. Into whose employ did you then go?

A. In the employ of a man by the name of Heinz.

X Q. 37. What was his business, and what your duty with him?

A. Merchant tailor. I was an errand boy.

X Q. 38. How long did you stay with him, and where did you next go?

A. Very few weeks. I next went with Henry Myers.

X Q. 39. What was Henry Myers' business? What your duty with him, and how long did you stay with him?

A. Clothing, furnisher. My duty was to sell goods, and make myself generally useful. I remained with him six or eight months.

X Q. 40. Where next did you go; how long did you stay?

A. I left Myers. I remained with him about one year.

X Q. 41. What was his business?

A. Clothing.

X Q. 42. What do you mean by clothing?

A. He kept a retail clothing store and gent's furnishing goods.

X Q. 33. Where went did you go, and how long did you stay?
A. I don't know the man's name; I went to [illegible] Market street between Seventh and Eighth to Mr. Kelsey's; I was with him but a few months.
X Q. 34. What was his business?
A. He kept a clothing store.
X Q. 35. Where went did you go, and how long did you stay?
A. Seventh Ward, [illegible] for the clothing business; about three year.
123 X Q. 36. Where went did you go, and how long did you stay?
A. With Henry Tobbin. I remained with him six or eight months.
X Q. 37. What was your duty with him?
A. I was learning the photographic business.
X Q. 38. How old were you when you went to Tobbin's?
A. I think I was [illegible]
X Q. 39. You were born in 1832, were you?
A. I was [illegible]
X Q. 40. Where went did you go?
A. I opened a [illegible]
X Q. 41. [illegible]
A. On Washington avenue, between Seventh and Eighth, [illegible] Louis. I kept [illegible]
X Q. 42. [illegible]
A. I sold a few months, then I [illegible]
X Q. 43. Where went did you go?
A. With Winnenfeld & Co.; they [illegible] Winnenfeld & Co.
X Q. 44. How long did you stay with them, and [illegible]?
A. About eighteen months; [illegible]
X Q. 45. Why did you give up your [illegible]
A. It did not pay.
X Q. 46. How did you dispose of it?
A. The goods were turned [illegible] him back.
X Q. 47. Where was Friedenwald's place of business at the time you were with them?
A. Main street, St. Louis; I think, No. 411.
X Q. 48. What do you mean by saying that [illegible] not?
A. We take a discount off bills of [illegible]
X Q. 49. Was the bill not [illegible]
A. I don't know. I [illegible] three days over [illegible]
X Q. 50. Where went did you go [illegible]
A. I went to [illegible]
X Q. 51. [illegible]
A. I did not work for anybody.
X Q. 52. How long did you stay in [illegible]
A. A couple of months.
X Q. 53. [illegible]
A. I was entertained by my [illegible] them.
X Q. 54. Where went did you go [illegible]
A. To Washington [illegible]
X Q. 55. How long did you stay [illegible]

A. About sixteen days.
X Q. 56. When was that?
A. Christmas and New Year week between 1868, 1869.
X Q. 57. Where next did you go?
A. Baltimore.
X Q. 58. How long did you stay there?
A. About a month.
X Q. 59. What work did you then do in Baltimore?
A. None.
X Q. 60. Entertained by your grandfather?
A. Yes, sir.
X Q. 61. Where next did you go?
A. To Boston.
X Q. 62. Who entertained you there?
A. For a short time by my uncle, John Tobine also.
X Q. 63. Was that the same Tobine who formerly kept a photographic establishment in St. Louis?
A. No, sir; one was named Henry and one named John.
X Q. 64. What did you do next after being entertained by John.
A. I worked for a man by the name of Hickson.
X Q. 65. Give his place of business, nature of his business, length of time you staid for him, and the amount of salary paid you by him.
A. His place of business, Court street, I think No. 63; his business, retail boot and shoe store; I remained with him a few months; I think my salary was ten dollars a week.
Witness states that this is not the next place he went to. I went to Rich & Pitman, and was with them three or four months, and this next place I had was McLean's.
X Q. 66. What was Rich & Pitman's business, and where was it?
A. Manufacturers of trunks and bags; on Union street near the corner of Hanover.
X Q. 67. What did you do in Rich & Pitman's employ?
A. I was an operator on a wax-thread sewing machine.
X Q. 68. What did you sew on that machine?
A. Bags.
X Q. 69. Nothing else?
A. I think I sewed a few trunk handles.
X Q. 70. Anything else?
A. Not to my remembrance.
X Q. 71. Did you know how to operate a wax-thread sewing machine when you went to Rich & Pitman's?
A. No, sir.
X Q. 72. Where did you go next after leaving McLean's?
A. To a Mr. Reed, in Wagenseth building; clothing store.
X Q. 73. How long did you stay with him, and what was your salary there?
(Complainant's counsel objects to any question suggesting the salary of this witness.
Defendant's counsel replies that his object in putting the question is to be better able to explain to the court the nature of the witness' connection with Crouch & Fitzgerald; still that therefore the inquiry as to salary, though objectionable, is yet necessary.)
A. I stayed with Mr. Reed about six months; my salary, I don't know; I forget.
X Q. 74. Was it as much as fifteen dollars per week?
A. Not more than that; it was not as much as that.

X Q. 75. Where next did you go?

124 A. [illegible]

X Q. 76. Is the business in which you were [illegible]

A. Yes, sir.

X Q. 77. Where next did you go?

A. [illegible]

X Q. 78. When did you commence that business?

A. I think it was the winter of 1871.

X Q. 79. Do you mean towards the end of 1871?

A. Yes, sir.

X Q. 80. Do you know the number of your establishment on Village street?

A. No, sir.

X Q. 81. How long did you remain on Village street?

A. Five or six months.

X Q. 82. Did you have a shop there or store, or what?

A. I had a shop.

X Q. 83. [illegible]

A. I [illegible]

X Q. 84. What was the business there, you [illegible]

A. Second Hights.

X Q. 85. Is he the only party who made shoes for you?

A. Yes, sir.

X Q. 86. How many did he make for you?

A. I don't remember.

X Q. 87. What did he make them?

A. [illegible]

X Q. 88. Did he have a shop there?

A. [illegible]

X Q. 89. What kind of wages did he make for you?

A. About a hundred dollars.

X Q. 90. Any with cork [illegible]?

A. Principally so.

X Q. 91. [illegible]

A. [illegible]

X Q. 92. [illegible]

A. [illegible]

X Q. 93. [illegible]

A. [illegible]

X Q. 94. [illegible]

Porter's place?

A. I [illegible]

X Q. 95. [illegible]

A. April or May, 1872.

Examination was here adjourned to December 3rd, 1872, at 2 o'clock p. m.

FRED. W. [illegible]

Examination of James [illegible]

125 X Q. 96. State when and [illegible]

(Complainant's counsel states that witness has already answered this question in his direct examination, stating that it was August 8th; defendant's counsel objects to this method of interfering with his cross-examination and refreshing memory of witness; complainant's counsel apologizes for the interruption.)

A. Since August the 8th, 1874.

X Q. 97. Are you positive that that is the correct date?

A. I am.

X Q. 98. When last did you read the affidavit referred to by you in your previous testimony, or a copy thereof?

A. About Tuesday last, November 30th.

X Q. 99. Was it the original or the copy that you read?

A. Copy.

X Q. 100. How did you obtain that copy?

A. I asked to see it.

X Q. 101. Who did you ask?

A. Mr. Barnum.

X Q. 102. And who gave it to you?

A. He did.

X Q. 103. Does that affidavit state the truth in every respect, excepting the amount of the purchases by Mr. Rumpp?

A. To the best of my knowledge, it does.

X Q. 104. Did Mr. Rumpp express himself willing to pay the royalty before you told him the amount thereof?

A. Before I told him the last amounts, he did.

X Q. 105. But did he express himself willing to pay the royalty before you told him that the charge was fifty cents per dozen?

A. He merely asked what it would be.

(Answer objected to as not responsive.)

X Q. 106. Question 105 repeated.

A. No; he did not.

X Q. 107. Were the goods which Mr. Rumpp purchased from you, as stated in your previous testimony, delivered to him?

A. They were.

X Q. 108. When?

A. A short time after.

X Q. 109. Please specify the order he gave you as near as you can remember.

A. About fifty dozen of shawl straps; I can't remember the numbers; they were nice goods.

X Q. 110. Did you treat with Rumpp on the basis of all the right bar shawl straps he had made and imported prior to your visit?

A. Yes, sir.

X Q. 111. Why, then, did you accept his statement of shawl straps manufactured from about January, 1872?

A. I took the statement he gave me.

X Q. 112. Did you not suggest to him the time to which he had to go back in making the statement?

A. No, sir.

X Q. 113. Did he not inform you that he had dealt in shawl straps previous to 1872?

A. Yes, sir.

X Q. 114. Was there nothing said by him or his bookkeeper with reference to his making shawl straps before 1872?

A. There was.

X Q. 115. State what that was.

A. In his abuse of the firm, he spoke about a shawl strap that he had on his back door.

X Q. 116. What did he say about that shawl strap?

A. I don't remember exactly what it was; he gave me the impression at the time that he claimed that he had made it before Crouch's patent; I paid no attention to it, however, from the fact [objected to as not responsive and volunteered] he was so excited at the time that he said many things that were not true.

X Q. 117. Since when are you salesman for Crouch & Fitzgerald?

A. Since August 8, 1874.

X Q. 118. What else was there said about the making of shawl straps by Rumpp prior to the year 1872?

A. Nothing that I can remember.

X Q. 119. Did not Mr. Rumpp state to you that Mr. Crouch had no right to a patent on a rigid bar shawl strap, as the same thing had been made by him prior to the patent?

A. No, sir.

X Q. 120. Did not Mr. Rumpp make the statement "Exhibit F" after he had given you notice of the importation of the eight gross?

A. No, sir.

X Q. 121. Of this you are quite positive, are you?

A. Yes.

X Q. 122. Did he not tell you that he had ordered their importation before he concluded not to import or make any more?

A. No, sir.

X Q. 123. What explanation did you make to him with regard to your personal connection with that business?

A. I don't remember.

X Q. 124. What don't you remember?

A. I don't remember saying anything about my personal connection with the business.

X Q. 125. How did you try to explain to him your position in the matter?

(Objected to on the ground that the conversation can be called for only.)

A. I don't understand what you mean.

X Q. 126. You have testified that after he became exhausted you tried to explain your positions—the firm's position and his position—in the matter. State how you tried to explain your position.

(Objected to on the ground that the witness has testified that Rumpp interrupted him and prevented him from making the explanation. Defendant's counsel protests again against the manner of interfering with his cross-examination and refreshing memory of witness.)

A. By speaking.

127 (Answer objected to as not responsive.)

X Q. 127. Question 126 repeated.

A. By commencing to speak.

X Q. 128. How long did you carry on your shawl strap business in Village street, Boston?

A. About two months.

X. Q. 129. Where next did you go, and into which business?

A. I merely changed my office to Ferdinand street—in the same business.

X Q. 130. How long did you remain in Ferdinand street?

A. Until about the latter part of April, 1872.

X Q. 131. Where next did you go, and into which business?

A. I changed my office again to Walker street, Charlestown; it is now part of Boston; same business. I stayed there till about the latter part of August, 1874; in the meantime, after March, 1874, my place of business was in Boston.

X Q. 132. Where?

A. The name of the street has slipped my memory.

X Q. 133. While your place of business was in Boston, as just stated, what did you do in Charlestown?

A. I lived there.

X Q. 134. Did you have an office or store in Charlestown?

A. Yes, sir; an office.

X Q. 135. Were you in the employ of Crouch & Fitzgerald before you left Boston for good?

A. Yes, sir.

X Q. 136. When did you leave Boston for good?

A. About the 22d of August, 1874.

X Q. 137. Were you in New York August 8, 1874?

A. Yes, sir.

X Q. 138. How long did you remain in New York after August 8, 1874?

A. I left that night.

X Q. 139. And when next did you come to New York?

A. About the 22d of August, 1874.

X Q. 140. What was your business in Boston between August 8 and August 22, 1874?

A. I was in the employ of Crouch & Fitzgerald.

X Q. 141. Where and at what?

A. Getting statements of infringements, stamping goods, infringement shawl stamps, notifying of infringements, collecting royalties, and selling goods. My headquarters were at my house, No. 34 Walker street, Charlestown district of Boston.

X Q. 142. Whereabouts was your place of business which you opened in Boston in March of 1874?

A. On a street between Hanover and Union—the first street from the junction of those two streets.

X Q. 143. Did you not have an office at 53 Winchester street, Boston, and, if so, where?

A. Right after I left Ferdinand street.

X Q. 144. Then your answer to cross-question 131 is not correct, is it?

A. It is not correct; it should be Winchester street, No. 53.

X Q. 145. How long were you at Winchester street?

A. Four or five months.

128 X Q. 146. Until what time?

A. Some time in September, 1872.

X Q. 147. When did you give up your establishment on the street between Union and Hanover, referred to in your answer 142?

A. Between the 1st and the 6th of August, 1874.

X Q. 148. Had you communicated with Crouch & Fitzgerald prior to August 8th, 1874?

A. I had.

X Q. 149. State when first you communicated with them, and gave a history of your dealings with them prior to August 8, 1874.

Witness corrects his former statement, and says that "I ceased connection with my place of business on the street between Union and

Hanover the latter part of July instead of between the 1st and 6th of August, 1874."

In answer to the question witness asks, "As a firm?"

X Q. 150. Individually or as a firm?

A. I think in June or July, of 1873, I was in New York; I called in their Maiden Lane store to sell some shawl straps, and was then told that I was infringing on Mr. Crouch's patent, and asked for the right to make them on a royalty; the next time I saw either of them, I think, was May, 1874, when I saw Mr. Crouch, at his Broadway store; I asked him his claim of his patent; the next time was in July, 1874; I went into Tobias & Wall's, on Cornhill, Boston, and saw Mr. Fitzgerald; he asked Mr. Tobias, in my presence, where the firm were situated by the name of Bremer & Higgins; I replied, he would not have to look far; that I was Mr. Bremer; he asked me if I was manufacturing shawl straps, and of what description; I told him most of the shawl straps I made at that time had an iron bar in; he asked me if I did not know that I was infringing on Mr. Crouch's patent; I told him that I had heard of his patent, also of his lawsuit in Newark; he asked me if I was going to discontinue the manufacture of that kind of shawl strap; I told him I would if I agreed to, but at that time I had not made up my mind to; he asked me when I was going to make up my mind; I asked him how long he was going to stay in Boston; I believe he said two or three days; I told him that I would tell him before he left; he told me, in the mean time, to make up a statement of the number of straps I had made up infringing on his patent.

Then there was a general conversation ensued, participated in by himself, Mr. Tobias, and myself, in which he gave me to understand that the firm proposed to manufacture all the straps made under Mr. Crouch's patent; I told him that would be pretty big business; that it took me most of my time to make straps for the city of Boston; he said that at that time they did not have a man competent to do so in their business.

He left then and I walked down the street with him; I told him the amount of business I had been doing, and how I did it, and that if I left off manufacturing shawl straps that I would be out of business unless I had enough fancy goods to make, and offered to take charge of his business on a percentage; he told me he could do nothing about it without consulting with his partner, Mr. Crouch, but at any rate he wanted me to make out a statement of the amount of straps I had made and give him, as he had determined to collect a royalty on every infringing strap that had been made; with this I left him; the
129 next time I met him was the next day in Young, Read & Atwood's; I went in there with Mr. Easter, of Easter & Winship; the next place I met him was at Brickett's; I was also with Mr. Easter then; Mr. Easter took him to his factory and store, and showed him round, and I left in disgust; the next time I saw him I believe was that night; I took down a line of samples; I think it was to the Tremont House, and sent my card up to him; he was in his room; I suppose he was; he came down stairs; I showed him my samples in the reading-room; he said they were all very nice, but wanted to know about my stopping making any more, and how about my statement. I told him that my partner and I had come to the conclusion to stop manufacturing, and would send my statement on. I then left and went home. In the last few days of July, 1874, I went to New York and saw Mr. Fitzgerald; handed him my statement; in conversation with me he told me he would accept my offer—that he had spoken to his partner

about it. I told him it was too late; that I thought I could better myself; that I was housekeeping in Boston, had a large circle of business acquaintances, and did not feel disposed, for the terms I had suggested at that time, to come on. He asked me to make another proposition then, which I did, and, after some time, it was accepted. I told him to write on to Boston to be perfectly satisfied as to my ability for the position; to send on the agreement made out, signed by him, if everything was all right; he said he could not very well inquire, but for me to return to Boston and send on such recommendations that I could myself. I went to the factory then and saw Mr. Crouch, after which I returned to Boston. Not getting a reply as soon as I expected from the firm, I wrote, and, in reply, he (Mr. Fitzgerald) wrote me that they had considered, since I had been away, the agreement to be made out, and, as I had backed out once, he claimed the privilege to make out another one. Not doubting that they were as anxious to get my services as I was to get the position, the next morning I went to New York and saw Mr. Fitzgerald again. Another proposition was made out, signed by both, and accepted. I left that night for Boston; that was August the 8th, 1874.

X. Q. 151. Give a history of your dealings that related to the Porter patent?

A. On receiving notification from R. H. Macy, of New York City, that an injunction had been sued against him by Crouch & Fitzgerald, I employed a patent agent to look me up all patents granted in any country in shawl straps prior to 1869; his report was there were none; he gave me the name of Crouch & Fitzgerald as being the first patentee of a shawl strap, and, I think the initials were, T. W. & H. K. Porter next; I inquired of different trunk and bag men in Boston if they had ever heard of such parties; I could not find out anything about them; I looked in the directory and found them; one of them as president of a sleigh and carriage iron company; I went there and saw one, the son; he told me his father would be in soon, and I waited for him; I introduced myself, and told him that I had been manufacturing shawl straps for some time with an iron bar; after the patent agent had told me about Mr. Porter's patent, I wrote to Washington for a copy, and received it; I asked Mr. Porter whether he had ever had a patent granted him; he said he had had a bushel of them;
130 I told him that Mr. Crouch, of New York, claimed that I had been infringing on his patent; he said he knew them, or Mr. Fitzgerald, I don't know which, and that they had offered him $1,500 or $15,000, I don't know which, for his patent; I asked him why he did not accept it; he said he would let it sweat for a time, and it would be more valuable to him; he then explained to me that he had got out at the same time another patent; I think it was for some scroll machine, and he had let it lay until some weeks previous, when a man in Texas, or somewhere South, had come to him and offered him a big sum for it; he told me when he got his patent; he told me when he made his shawl straps in the Army he had made a few for his brother officers; they thought it was a very good thing; he brought it home and showed it, and thought he would get a patent; I asked him what he would charge me to manufacture straps under his patent; he said he could not tell me then, as his partner was away, but in the meantime he gave me a written permission to manufacture shawl straps under his patent, until his partner returned; he told me, after telling him of a patent of my partner's brother, that three of the strongest patents that had been granted would have to combine to hold a patent on a rigid bar strap; I

asked him if he had ever manufactured any of his straps, and how it was that no one knew him; he said that he had only made a few—the boys had made the stretchers in the shop. Afterwards, on showing him an affidavit I had on the subject of a man making them in the Army, he said that that had been the experience of hundreds of men in the Army, he had no doubt.

Examination further adjourned to December 6th, 1875, at 1 p. m.

FRED. W. REBHANN,
Notary Public, New York Co.

DECEMBER 6TH, 1875.

Examination further adjourned to December 8th, 1875.

FRED. W. REBHANN,
Notary Public, New York Co.

DECEMBER 8TH, 1875.

Examination further adjourned to December 9th, 1875.

FRED. W. REBHANN,
Notary Public, New York Co.

DECEMBER 9TH, 1875.

Cross-examination of ISIDOR BREMER continued:

X Q. 152. How much did you sell to Bains & Sons on the occasion of your visit to Philadelphia, testified to by you?

A. I don't know the exact amount.

X Q. 153. State it as near as you can remember.

A. It was near $750.

X Q. 154. Was that in one order?

A. Yes, sir.

131 X Q. 155. Have you been in Boston since your last examination here?

A. Yes, sir.

X Q. 156. Have you there spoken to any one about the testimony which you have given in this case, or expected to give?

A. Yes, sir.

X Q. 157. Name each and every person with whom you have so conversed on the subject?

A. John Tobias, the only one I remember of.

X Q. 158. Did you not speak to any one else?

A. Not to my remembrance.

X Q. 159. Would you not remember if you had?

A. I would.

X Q. 160. What is the name of the patent agent who told you that he could not find any patent on shawl straps prior to 1869?

A. I don't remember answering any question that way.

(Answer objected to as not responsive.)

X Q. 161. Question No. X 160 repeated.

A. There was no patent agent told me anything of the kind.

X Q. 162. Whose affidavit did you show to T. W. Porter?

A. Seth Hatch.

X Q. 163. Is it not Seth H. Hatch?

A. I think that that is the medium initial.

X Q. 164. Did you not also show him an affidavit of Mr. Easter?

A. I might have; I probably did, though I don't remember.

X Q. 165. Did you ever have in your possession an affidavit of Mr.

Easter relating to his knowledge of rigid bar shawl straps prior to the patent of George Crouch?

A. Yes, sir.

X Q. 166. What is the full name of that Mr. Easter?

A. George Easter, I believe.

X Q. 167. Is it not George A. Easter?

A. I don't remember the initials of his name.

X Q. 168. Was he at that time salesman with Easter & Winship, of Boston?

A. He was.

X Q. 169. And the son of the Mr. Easter of that firm?

A. He was.

X Q. 170. Do you know of any other son of that Mr. Easter?

A. I have heard of one.

X Q. 171. Was he in that business at that time?

A. He was with, or connected in business with, H. A. Winship & Co. on Tremont street.

X Q. 172. Do you know his first name?

A. No, sir.

X Q. 173. How came you into possession of the two affidavits of Hatch & Easter?

A. Some time in the summer of 1874, in conversing with the firm of Easter & Winship on the subject of the patent of Mr. Crouch's, they told me that they knew a man who had made a rigid bar shawl strap prior to the date of Mr. Crouch's patent. I asked him who he was; they told me of Mr. Hatch. I asked them where he was; they told me he was up stairs in their employ. I asked them if I could see
132 him; they told me, yes. Previous to this they showed me a strap which he had made. When he came down I got him and Mr. Easter to make these affidavits.

X Q. 174. What did you do with these affidavits; to whom did you show them and finally deliver the same?

A. I showed the affidavits to many; amongst them to Mr. Tobias, of Tobias & Wall, Richard P. Higgins, and Mr. Fitzgerald; whether he has them, or I, I do not know.

Defendant's counsel requests plaintiff to produce the affidavit of Seth H. Hatch, which he did produce at the examination of said Hatch on the 7th of September, 1875.

The same is produced.

X Q. 175. Look at the affidavit of Seth H. Hatch, July 21st, 1874, and state whether that is the affidavit you had in your possession?

A. Yes, sir.

X Q. 176. Was there attached to that same sheet the affidavit of George A. Easter, of the same date?

A. I won't be positive if there was; my impression is that there was.

Counsel for defendant again calls for the production of the affidavit of Easter that was joined to said Hatch's affidavit.

X Q. 177. How long before taking or having taken these affidavits had you known Mr. T. W. Porter?

A. I don't know.

X Q. 178. Did the visit of Mr. Fitzgerald to Boston, about which you have testified, take place before July 21st, 1874; and, if so, how long before?

A. I think it took place afterwards.

X Q. 179. What makes you think so?

A. My impression is, I had the affidavits when Mr. Fitzgerald came on.

X Q. 180. When and where did you first show these affidavits to Mr. Fitzgerald?

A. I think in the Maiden Lane store, corner Broadway, New York, when first he commenced suit against Mr. Roemer.

X Q. 181. When was that?

A. I don't remember.

X Q. 182. Do you swear positively that you did not show these affidavits, nor copies thereof, nor speak of them, to Mr. Fitzgerald before this suit against Roemer was commenced?

A. I do not swear so; I did not show them to him to my remembrance before the suit had commenced.

X Q. 183. How much time elapsed between Mr. Fitzgerald's visit to Boston and your next subsequent visit to New York?

A. About a week.

X Q. 184. Are you acquainted with Henry Speer, of Newark, N. J.?

A. I have seen him several times.

X Q. 185. Did you buy some goods from him in July, 1874?

A. I think I did about that time.

X Q. 186. Did you then tell him that you could prove by Porter and others that George Crouch was not the first inventor of the rigid bar shawl strap, or words to that effect?

133 A. No, sir; not to my remembrance.

X Q. 187. Did you not make remarks substantially like that contained in cross-question 186 to a number of persons?

A. Yes, sir.

X Q. 188. Name some of the persons.

A. I don't remember any names; I probably made the remark often.

X Q. 189. What caused you to make the remark?

A. My inexperience in patent matters and my belief in the truthfulness of the statements of business men.

X Q. 190. Which business men did you have reference to in your last answer?

A. Easter & Winship, Mr. Peddie, that is all I remember now; and others through them.

X Q. 191. Which Mr. Peddie is that?

A. T. B. Peddie; I saw him in New York; he is a trunk man.

X Q. 192. What did he state to you?

(Objected to as incompetent.)

Question amended by adding thereto the words "as to shawl straps."

(Objection renewed.)

A. He gave me to understand, after asking him his advice on a shawl strap patented by Mr. Crouch, that he was undecided what action he was going to take in that matter; that is all.

X Q. 193. Is that one of the statements upon whose truthfulness you relied in asserting that you could prove the invalidity of Crouch's patent?

A. The untruthfulness of that statement made me doubt others.

X Q. 194. What was there untrue in that statement of Mr. Peddie?

A. He had already settled with the firm of Crouch & Fitzgerald.

X Q. 195. When did Mr. Peddie make that statement to you?

A. The latter part of July, 1874.

X Q. 196. Where?

A. In his store, on Chambers street, New York.

X Q. 197. Was that on the occasion of your first or second visit to New York after July 21, 1874?

A. First.

X Q. 198. When did you throw off the inexperience in patent matters mentioned in your answer 189?

(Objected to on the ground that it does not appear that he has thrown it off.)

A. I think I threw it off when I gave up the manufacture of shawl straps infringing on Mr. Crouch's patent, or at least part of it.

X Q. 199. What additional knowledge did you then gain on the subject?

(Objected to as immaterial.)

A. Prior to that I know nothing about patent matters, that is all.

134 X Q. 200. What representation of Easter & Winship had you reference to in your answer 190?

(Objected to as immaterial and incompetent.)

A. They told me about several parties that would furnish me money to fight the patent; of their animosity to the firm of Crouch & Fitzgerald; subsequently one of these parties denying that they agreed to furnish money; their cordial treatment toward Mr. Fitzgerald by Mr. Easter while on our way round seeing who would help me fight it, and his cordial treatment of him in his store which he invited him to when he met him on this round; of his trying to impress upon Mr. Fitzgerald that he had neither bought or made shawl straps infringing on Mr. Crouch's patent after he was notified by him; afterwards refusing get this money he spoke of, or buying straps of me until after I had defeated the patent.

X Q. 201. Did you go around with Mr. Fitzgerald to see who would help you fight the Crouch patent?

A. No, sir.

X Q. 202. What do you mean, then, by the words "treatment of Mr. Fitzgerald by Mr. Easter while on our round seeing who would help me fight it"?

A. I went around with Mr. Easter, and we met Mr. Fitzgerald on our way round.

X Q. 203. Who did you call on with Mr. Easter on that occasion?

A. Mr. Haley, Young, Reed & Atwood, Mr. Brickett; that's all I remember now.

X Q. 204. Did you on that occasion produce the affidavit of S. H. Hatch?

A. Not to my remembrance.

X Q. 205. Why not?

A. I did not have anything to say about the matter; Mr. Easter did all the talking.

X Q. 206. Did you not, while visiting Henry Speer, show him a copy of Porter's patent?

A. I believe I did.

X Q. 207. What object did you have in view in so doing?

A. I don't remember.

X Q. 208. Was that also on the occasion of your visit to New York next after July 21, 1874?

A. I don't remember; it was either that or the one before.

X Q. 209. When did you visit New York next before July 21, 1874?

A. The first of the month some time; I don't know exactly when.

X Q. 210. When did Mr. Macy first inform you that an injunction had been sued out against him by Crouch, of Crouch & Fitzgerald?

A. The latter part of June or the first of July, I think, 1874.

X Q. 211. What caused you to ask Crouch & Fitzgerald for a royalty in the spring of 1873?

A. Because Mr. Crouch's son told me that his father had a patent on the strap I was making, and as I could not very well stop making them, I would have liked to have his permission so to do.

X Q. 212. Did you get his permission?

135 A. No, sir.

X Q. 213. Did you thereupon discontinue the manufacture and sale of rigid-bar shawl straps?

A. No, sir.

X Q. 214. Why not?

(Objected to as immaterial.)

A. I was not then satisfied that he had a patent or a right to stop me from making them.

X Q. 215. What made you think so at that time?

A. Everybody else that was manufacturing them continued to do so.

X Q. 216. Were Tobias & Wall amongst those persons?

A. No, sir; I never knew them to manufacture shawl straps.

X Q. 217. But did they continue to deal in them at that time?

A. During that time I was not in their place of business, and don't know.

X Q. 218. Did you not furnish them with the rigid-bar shawl straps in 1873?

A. The latter part I might have.

X Q. 219. What was the amount of business you mentioned to Fitzgerald as referred to in your answer to cross-question 150?

A. I don't remember that there was any amount mentioned, only that I told him where I sold my goods and what quantities of different styles I had made up, and told him that I sold the majority of goods of that description that had been sold in Boston since I commenced business.

X Q. 220. Can you remember the extent of the statement you handed Mr. Fitzgerald, as mentioned in your answer 150?

A. No, sir.

X Q. 221. Did it contain the number of rigid-bar shawl straps made by you?

A. Yes, sir.

X Q. 222. Please name the same?

A. I cannot remember.

X Q. 223. How large about was the number?

(Objected to as immaterial.)

A. I can't remember.

X Q. 224. Was it as much as 100 gross?

(Same objection.)

A. I have said I can't remember.

X Q. 225. Was it as much as ten gross?

A. Yes.

X Q. 226. Was it as much as twenty gross?

(Same objection.)

A. I don't remember.

X Q. 227. Why don't you remember?

A. I don't think this is answerable.

X Q. 228. Who made your statement?

A. I think I did myself.

X Q. 229. What did you make it from?

A. From my books.

X Q. 230. Where are those books?

A. I have them.

X Q. 231. Question repeated.

136 A. I have them myself.

X Q. 232. Question repeated.

A. They are in my house, 388 West Thirty-second street, New York.

X Q. 233. Have you preserved a copy of your statement to Mr. Fitzgerald?

A. No, sir.

X Q. 234. How many books have you that contain entries of shawl straps made by you?

A. I don't know.

X Q. 235. Did your statement handed to Mr. Fitzgerald show only the number of rigid bar shawl straps made by you, or did it also show any other items; if so, which?

A. It showed less than all the shawl straps with the rigid bar I had made; I think the statement only contained the number of rigid bar straps I had made.

X Q. 236. Why did it not show the whole number?

(Objected to as immaterial.)

A. Because four months in 1872 I kept no account of straps I had made, and part of 1873, and as all of my goods, with but a half a dozen exceptions, in 1872 and 1873, was sold C. O. D., and I omitted it many times in making entries except in order book.

Adjourned to December 10th, 1 p. m., and Monday, December 13th, at 12 m.

DECEMBER 13, 1875.

Examination of ISIDOR BREMER continued:

Witness desires to make a correction of his testimony, and further states, as follows:

In answer to a question the other day of where I got the figures or statements of the number of shawl straps I gave to the firm of Crouch & Fitzgerald, I said from books I had in my possession; that was incorrect; the statement was taken from the books of Bremer & Higgins, and the statement given was from them.

X Q. 237. How did you ascertain that error?

A. By looking at the statement; I saw it in the Maiden Lane store of Crouch & Fitzgerald; Mr. Fitzgerald had it; I saw it this morning.

X Q. 238. Are you now able to state the number of shawl straps accounted for in that statement?

A. Five hundred and ninety-four dozen.

X Q. 239. When was the firm of Bremer & Higgins established?

A. March 13th, 1874.

X Q. 240. Did you never render a statement of the rigid bar shawl straps made by you previous to March 13th, 1874?

A. No, sir.

X Q. 241. Did Mr. Fitzgerald, or Messrs. Crouch & Fitzgerald, not call for such a statement?

(Objected to as immaterial.)

A. Yes, sir.

X Q. 242. What reason gave you to them for not furnishing one?

(Same objection.)

137 A. I never gave any reason for it at all; I thought up to this morning that I had given it.

X Q. 243. And did you so represent to Crouch & Fitzgerald; I mean that you had given it?

(Same objection.)

A. By giving that statement alone, unintentionally I did, but the statement is made out for Bremer & Higgins?

(All of the foregoing answer, excepting the words "I did," objected to as not responsive and volunteered.)

Witness desires to explain and states: The time I gave the statement to Crouch & Fitzgerald I had intended to give them one of my own also; if they had known that I was in business for myself before I went in with Bremer & Higgins, and had it been called for, I should have given it; not knowing that I was in the same business before I went in with Higgins, they probably supposed it was a full statement.

X Q. 244. Did Rich & Pitman deal in rigid bar shawl straps at the time you were in their employ?

(Same objection.)

A. Not to my knowledge.

X Q. 245. Did any of the firms with whom you were connected in St. Louis deal in shawl straps?

(Same objection.)

A. No, sir.

X Q. 246. Where did you first see a rigid bar shawl strap?

A. I don't remember.

X Q. 247. Have you not heretofore stated to various parties that you have seen rigid bar shawl straps before 1868, or before Crouch's patent, or words to that effect?

(Same objection, and as incompetent.)

A. No, sir.

X Q. 248. Did Wall & Tobias deal in rigid bar shawl straps at the time you were in their employ?

(Same objection.)

A. Not to my knowledge.

X Q. 249. How did you get the idea of making rigid bar shawl straps?

A. I copied my patterns from what I saw in Boston, in stores and windows?

X Q. 250. Where did you first see a rigid bar shawl strap?

A. The first I can remember of seeing was in Boston.

X Q. 251. What induced you to establish yourself in the manufacture of rigid bar shawl straps; who aided you in establishing such manufacture, and from whom did you receive information necessary to carry on such business?

(Same objection.)

A. Witness asks whether it is necessary for him to answer all questions relating to his private business; that he has answered a great many questions that I considered personal, but have continued answering them with the hope that each one would be the last.

138 Defendant's counsel informs witness that it his duty to answer every question, unless by so answering he would criminate himself, and that it is for counsel, and not for witness, to determine which question should be the last.

Counsel for complainant protests against the further examination of this witness into his private affairs as immaterial and especially ungracious; that the witness has shown the utmost patience in submitting to the line of cross-examination pursued, and that it ought not to be pursued further.

Defendant's counsel assures plaintiff that he will not protract the ex-

amination of this witness unnecessarily, but that the information sought is deemed essential to the interest of his client in this cause.

A. I was out of work, was the reason I established myself in that business; nobody aided me at all; I saw them on the street.

X Q. 252. So you were discharged by Wall & Tobias, were you?

(Same objection.)

A. Not exactly discharged; business was dull and they quit work for a time.

X Q. 253. Who made the rigid bar shawl straps for your firm of Bremer & Higgins?

A. They were made by ourselves and workmen.

X Q. 254. How many workmen did your said firm have, and give their names as near as you remember?

A. I can't remember; we had different numbers at different times; I don't remember the name of any except one Frank Cole.

X Q. 255. Who made them for you in the latter part of 1873, and the first two months of 1874?

A. I didn't sell shawl straps then.

X Q. 256. When did you cease selling them in 1873?

A. About the middle of December.

X Q. 257. Who made them for you in the latter part of 1873?

A. Samuel Hipkins.

X Q. 258. Do you now remember the name of the street on which you had your store in 1874?

A. Marshall street, No. 15.

X Q. 259. Please relate all that took place, with reference to the shawl strap business, between you and Mr. Crouch, in May, 1874?

A. I don't remember all the conversation; I can merely give the subjects of it; I remember his telling me about the state of the art of the manufacture of rigid bar shawl straps prior to my coming there to see him, and told me about Mr. Fitzgerald's having the business in his hands as far as the manufacture of them by other parties was concerned.

X Q. 260. Did you at that time ask Mr. Crouch for the claims of his patent?

A. I did.

X Q. 261. Did you then tell him that you had made, and were making, rigid bar shawl straps?

A. I don't remember.

X Q. 262. Did you not in July, 1874, tell Mr. Fitzgerald in Boston that you had proofs of the invalidity of Crouch's patent?

A. Not to my remembrance.

139 X Q. 263. Did you not so state to Mr. Fitzgerald, in Boston or New York, on or before August 8, 1874?

A. Not to my remembrance; I think not, from the fact that I remember being very reticent about the matter to him.

X Q. 264. Why were you reticent?

A. Because I expected to have some trouble about the matter.

X Q. 265. Was it your intention, on going with Mr. Easter to Brickett, Young, Reed & Atwood, and others, to collect or provide for funds wherewith to combat the Crouch patent?

A. It was.

X Q. 266. Was it your bona fide intention to combat said patent, had such funds been furnished?

A. Yes, sir.

X Q. 267. Did you not, upon visiting Mr. Fitzgerald, next after his

visit to Boston, and at the time you increased your demand for percentages or salary, threaten to defeat said patent, unless your terms were accepted?

A. No, sir.

X Q. 268. Who, if any one, was present at the interview last referred to?

A. I am not positive, but I think Mr. George and Alfred Crouch.

X Q. 269. In what did your second proposition to Mr. Fitzgerald differ from your first?

A. In a salary as well as a percentage.

X Q. 270. What caused you to presume that Crouch & Fitzgerald were as anxious to get your services as you were to get the position?

(Objected to as immaterial and incompetent.)

A. I didn't say that I presumed.

X Q. 271. Did your visit to Mr. Crouch in May, 1874, take place before or after you knew of the Porter patent?

A. Before.

X Q. 272. When did Crouch & Fitzgerald, or either of them, first claim that you had been infringing on Crouch's patent?

A. In July, 1874, or before that, through a suit against R. H. Macy.

X Q. 273. Do you know when that suit was brought against Macy?

A. I do not know the day; I think I was notified of it the 11th day of July, 1874.

X Q. 274. After Mr. Porter had licensed you for the limited time to make the rigid bar shawl strap, did you call on him again for a continuous license; and, if so, when and what took place?

(Objected to as immaterial and incompetent.)

A. I called upon him, but not for a continuous license; after I got the affidavit of Hatch & Baxter, I showed him Hatch's affidavit; he took notes of it, and remarked that had been the experience of thousands of men in the Army.

X Q. 275. Did you not make efforts towards a more intimate connection with Mr. Porter's patent?

(Same objection.)

A. I went up there for that purpose, but he told me that until
140 the return of his partner, who was away, he could do nothing more about it, and said ultimately three or four of the strongest patentees would have to combine to hold it, like the sewing machine patents and others.

X Q. 276. Why did you show the Hatch affidavit to Mr. Porter?

(Same objection.)

A. I took him to be a shrewd business man, interested in the patent, and he could give me advice on it.

X Q. 277. When first did you speak to Mr. Fitzgerald of proofs in your possession against the validity of the Crouch patent?

A. I think it was the latter part of August, 1874, when I came back from Boston to New York.

X Q. 278. Are you positive that you did not broach the subject while Mr. Fitzgerald was in Boston?

A. Only that I did not agree when he first asked me to stop manufacturing.

X Q. 279. Do you mean that you mentioned or referred to them as your reasons for not agreeing?

A. No, sir.

X Q. 280. Are you positive that you did not broach the subject while visiting Mr. Fitzgerald in the hotel?

A. I don't recollect speaking to him until the time I stated about any positive proofs that I thought I had against the validity of the patent.

X. Q. 281. Did you not hint at your possession of proofs to that effect while seeing Mr. Fitzgerald at his hotel in Boston?

A. No, sir.

X Q. 282. What is the name of the patent agent whom you employed to look up all patents on shawl straps?

A. I don't remember.

Q Q. 283. Where is his place of business?

A. It is on State street, near the old post-office.

X Q. 284. Were you at the time of asserting that you had proofs of the invalidity of Crouch's patent satisfied that you did have such proofs?

(Objected to as immaterial and incompetent.)

A. Yes, sir.

X Q. 285. What were such proofs? Name them all.

(Same objection.)

A. The first proof I thought I had, in reading over a copy of Mr. Crouch's patent, I thought he merely had a patent on a corrugated bar; Mr. Porter's patent, Mr. Hatch's affidavit, and most every one in the leather business that I had spoken to, claimed priority in a small way.

X Q. 286. Why did you not name Mr. Easter's affidavit?

A. I thought it belonged to Hatch's affidavit; it was on the same subject matter.

X Q. 287. What, if anything, did you know of Mr. Hatch's character on or before August 8th, 1874?

(Objected as immaterial, incompetent, and not proper cross-examination.)

A. I didn't know anything personally about him. I had heard unfavorably about him.

141 X Q. 288. Give the conversation between you and Mr. Peddie, referred to by you, as fully as you can remember?

(Same objection.)

A. There was very little said, and I remember nothing, except him stating that he had not made up his mind what he was going to do about the patent?

X Q. 289. And you are positive that this was in July, 1874, are you?

A. As near as I can be.

X Q. 290. Are you positive that you did not learn of the existence of Porter's patent until after Macy had informed you of the injunction?

A. It might have been a week previous, but my recollection is that that started me to looking up the matter.

X Q. 291. When did you first learn that Peddie had settled?

A. After leaving his store some time. I don't know when.

X Q. 292. Before or after August 8th, 1874?

A. Before.

X Q. 293. When did Easter first refuse to buy rigid bar straps from you?

A. When first I started in business.

X Q. 294. And never bought them since?

A. He has bought goods of me, and I think rigid bar straps. I don't remember.

X Q. 295. Did he refuse to buy straps from you in 1874?

A. He did.

X Q. 296. When was that?

A. At the time or after Mr. Fitzgerald left Boston.

X Q. 297. What reason did he give for the last named refusal?

A. I told him that I would fight the suit with my own money, and asked him, in the mean time, to give me an order for shawl straps; he said he would if I won the suit, and so would everybody, but not till then?

X Q. 298. What did Mr. Easter do while going round with you to Bricketts, Haley, Young, Reed & Atwood, &c., on the second day of Mr. Fitzgerald's presence in Boston?

A. I don't remember now whether it was the first or second day; he spoke to them himself. I didn't hear what he said on the matter we were talking about; in fact, in conversation with Mr. Young, of Young, Reed & Atwood, he denied that he told Mr. Easter that he would give any money towards this suit.

X Q. 299. Did you go to Crouch & Fitzgerald's place in the year 1873 to find what royalty to pay on rigid bar shawl straps?

A. Not exactly.

X Q. 300. When first and where did you see one of Mr. Crouch's sons?

A. I think it was in the latter part of the spring or early in the summer of 1872.

X Q. 301. Where did you first see him?

A. In the Maiden Lane store, corner of Maiden Lane and Broadway.

X Q. 302. What took place at that time between you?

(Objected to as immaterial and incompetent.)

142 A. I went into the store with my sample case, and showed a line of my samples, and asked him if I couldn't sell him some; he said I didn't come there to sell goods, but that I came there to find out what I could find out; I asked him to explain himself; he said his father had a patent on that strap; I asked him who his father was, and where he was; he said up to the factory, and said I was infringing on the strap, and knew it; I told him I hadn't time to go up to the factory, and asked him if he would ask his father if he would give me permission to manufacture them if he had a patent on it; I left my address.

X Q. 303. Did you, since August 8th, 1874, manufacture shawl straps for Crouch and Fitzgerald?

A. Witness asks: Do you mean with my own hands? I have superintended the manufacturing.

X Q. 304. When first?

A. I think since August 22d, 1874.

X Q. 305. Are you still the superintendent of their factory?

A. I am.

X Q. 306. How do you know that you sold the majority of rigid bar shawl straps in Boston?

A. Because, being in and out of almost every business place that do anything with shawl straps in Boston, very few of any other kind of goods have been on display; I know it now from the statements given to me, and by what has been told to me, and since and then by those dealing in them.

X Q. 307. Did you ever pay royalty to Crouch & Fitzgerald for the rigid bar shawl straps that you had made in infringement of their patent?

(Objected as immaterial and incompetent.)

A. I have not as yet.

Redirect examination:

R. D. Q. 308. Did Easter & Winship display much interest in your expected controversy with Crouch on rigid bar shawl straps?

(Objected to as leading.)

A. They did.

R. D. Q. 309. Did you have many interviews with them on the subject?

A. Many.

R. D. Q. 310. What feeling did they display towards Crouch & Fitzgerald?

(Objected to as immaterial.)

A. Anything but a friendly feeling; they did all they could to help me to fight the suit till towards the last; they told me if they were interested in the manufacture of shawl straps they would never pay a royalty, but would fight, and, in fact, believed it to be merely a bluff game.

R. D. Q. 311. When Mr. Easter went round with you, what did he give you to understand his errand was?

A. To collect money, or have it guaranteed, to pay my expenses in a suit resisting Crouch & Fitzgerald.

R. D. Q. 312. Did he tell, or profess to tell, you the result of his interviews with the people you called on?

143 (Objected to as immaterial.)

A. He did.

R. D. Q. 313. What did he tell you about it?

(Same objection.)

A. The only one I remember of now was the interview with Mr. Young, of Young, Reed & Atwood; he said that Mr. Young was willing to pay fifty dollars, but did not wish his name to be mentioned in the matter, and said he should put it down in his own name, and add it to what he proposed to give.

R. D. Q. 314. Did Mr. Easter propose to give something himself?

(Same objection.)

A. He did.

R. D. Q. 315. Where did you and Easter first meet Fitzgerald?

(Objected to as already answered.)

A. As he was coming out of Young, Reed & Atwood's; we were going in; I was stopped and introduced to Mr. Fitzgerald for the second time.

R. D. Q. 316. After you entered the employment of Crouch & Fitzgerald, did you visit Easter & Winship in the performance of your employment?

(Objected to as immaterial, and as not redirect.)

A. I did.

Recross-examination:

R. X Q. 317. What took place then?

A. I stamped some infringement shawl straps they had in their possession.

R. X Q. 318. Those of your own manufacture?

A. I think not; all that he had on hand, or said he had at the time.

R. X Q. 319. Did you stamp, in Boston, after August 8th, 1874, the goods of your own manufacture, and collect royalty thereon?

A. I stamped all the goods of my own manufacture that I could find; but as I had sold them in good faith, I proposed to settle that with the firm personally.

R. X Q. 320. Through the agency of your statement, or how?

A. I don't know what you mean by it?

R. X Q. 321. How much money was Mr. Easter to give you to aid you in the contemplated suit against Crouch?

A. I don't remember exactly; I think it was seventy-five dollars.

R. X Q. 322. How much did you want altogether?

A. I didn't think of that at the time; we were trying to see how much we could get.

R. X Q. 323. Were the efforts of Easter & Winship in your behalf made through friendship to you, or through self-interest?

A. Self-interest, I took it; I had nothing in common with them; they never did a friendly act for me before; they were interested as I was.

R. X Q. 324. Have you not testified that they were not manufacturers of shawl straps?

A. They were not, to my knowledge, whether I testified to it or not, only in a very small way.

144 Re-redirect examination:

R. R. D. Q. 325. Did you stamp Easter & Winship's shawl straps in accordance with any prior agreement or understanding?

(Objected to as leading and calling for hearsay testimony.)

A. With the understanding he was to pay a royalty on them.

R. R. D. Q. 326. Had they previously made any statement to you?

(Objected to as leading.)

A. They had.

R. R. D. Q. 327. Look at this paper now shown you and state what it is.

(Objected to as incompetent, and not redirect examination.)

A. It is a statement from Easter & Winship to Crouch & Fitzgerald as to the number of rigid bar shawl straps they had on hand not made by the firm of Crouch & Fitzgerald or stamped by them.

(Answer objected to as hearsay, and not in conformity with the statements contained on said paper.)

I state that I called on Easter & Winship prior to coming to New York, telling them that I was going to see Crouch & Fitzgerald and give them my statement, and with my assistance they counted these goods and wrote the statement and gave it me for the firm.

(Latter part of answer objected to as not responsive.)

R. R. D. Q. 328. State the circumstances under which the statement referred to was given.

(Objected to as incompetent, from the face of the paper, which appears to be addressed to Crouch & Fitzgerald at a time when witness was not the agent or any way connected with said firm.)

A. I went into Easter & Winship's and told them that I was going to New York, and that I was going to see Messrs. Crouch & Fitzgerald. They then counted what straps they had on hand of different kinds and handed me that statement; I helped them count the straps.

R. R. D. Q. 329. Was that statement handed to you to deliver to Crouch & Fitzgerald?

(Objected to as leading.)

A. It was.

R. R. D. Q. 330. Have you since had any conversation with Easter & Winship in reference to that statement?

(Objected to as immaterial and not redirect.)

A. I have.

R. R. D. Q. 331. State when, where, and what.

(Same objection.)

A. While in Boston in their store, some time in 1874, they asked me when I was going to send them a bill for royalty on these straps; I told them not at present, or to that effect.

The statement referred to is offered in evidence, and marked Complainant's Exhibit H, December 13, 1875.

145 EXHIBIT H.

[Office of Easter & Winship, manufacturers of trunks, travelling and shopping bags, valises, &c.]

No. 7 ELM STREET, *Boston, July* 31, 1874.

Messrs. CROUCH & FITZGERALD:

GENTS: Our stock of shawl straps are as follows:
42 English shawl straps from Hermann, Wolf & Co.
71 Ridged bar " not stamped.
And this is all we have. Since you notified us we have not bought any straps of any party.
This is a true statement.
Yours, with respect,

EASTER & WINSHIP.

Complainant's Exhibit H. December 13, 1875.

F. W. R.

(Objected to as not rebutting evidence.)

R. R. D. Q. 332. Did you ever have any conversation with Easter & Winship as to the correctness of that statement?

(Objected to as incompetent and calculated to impeach plaintiff's own evidence.)

A. I did.

R. R. D. Q. 333. State what conversation you had.

A. That that was all the straps they had on hand at that time; what they had before they gave me to understand were in books they didn't have, and nobody could make them produce.

R. R. D. Q. 334. Why did you not collect the royalty on that statement?

A. From the fact that I thought that some time I could prove the amount of infringement straps that they had dealt in, and at that time I did not think it right to give them a receipt for any straps until I could prove that.

Re-recross-examination:

R. R. X. Q. 335. Did you expect to prove that from your own books?

A. No, sir.

R. R. X. Q. 336. How came you to call on Easter & Winship after you had left them in disgust?

A. I don't know.

R. R. X. Q. 337. Did you intend the conveyance by you of the statement, Exhibit H, to Crouch & Fitzgerald to be a species of what you would term a friendly effort?

A. No, sir.

R. R. X. Q. 338. Under what pretext did you cause them to give you that statement otherwise than that you volunteered to take it to New York?

146 A. It was a matter of no moment; I was going to New York, and they gave it to me to take there.

R. R. X Q. 339. Did you ask them to prepare such a statement for you to take to New York?

A. No, sir.

R. R. X Q. 340. What induced you to count their straps after you were disgusted with them?

A. They hauled them out and asked me to come and look at them, and see for myself that they were right.

R. R. X Q. 341. How soon after you received that statement did you part with it?

A. I don't know.

R. R. X Q. 342. How soon after you received that statement did you go to New York?

A. That day or the next.

R. R. X Q. 343. Was that your first visit, or your second, to New York after Mr. Fitzgerald's visit to Boston?

A. First visit, I think.

Examination adjourned to December 15th, 1875, at one o'clock p. m.

FRED. W. REBHANN,
Notary Public, N. Y. Co.

DECEMBER 15, 1875.

Examination of ISIDOR BREMER resumed.

Witness desires to correct his answer to cross-question 300 by statement that he meant 1873 instead of 1872, as therein answered.

R. R. X Q. 344. Have you read your depositions carefully since December 13, 1875, and is the above the only correction you wish to make?

A. Yes, sir.

R. R. X Q. 345. Did you receive any reply to your request set forth in the last clause of answer 302?

A. No, sir.

R. R. X Q. 346. How came he to tell you that you came to find out what you could find out, and that you knew of Crouch's patent?

A. I don't know.

R. R. X Q. 347. Are you positive that you did not know that that strap was patented at the time you first went to Crouch & Fitzgerald's place in 1873?

A. Yes.

R. R. X Q. 348. Are you positive that Mr. Rumpp, on the occasion of your interview with him, did not say anything about rigid bar shawl straps which he had made and sold prior to Crouch's invention?

A. The only thing I remember was in his tirade against the firm; he spoke of a strap he had on his back door.

(Answer objected to as not responsive.)

R. R. X Q. 349. Question R. R. X 348 repeated.

A. I am positive I don't remember any more than I have already testified to about it.

R. R. X Q. 350. Have you not positively stated, and also sworn in your affidavit, that the only strap referred to by Mr. Rumpp was the one nailed to the cellar door?

147 A. I don't know as I said anything about its being nailed.

R. R. X Q. 351. Did you not in your affidavit swear that during said interview said Rumpp made no claims or pretense that he had made or sold shawl straps with a rigid cross bar prior to the date of said patent, and that the only thing spoken of as anticipating the complainant's invention was a statement by said Rumpp that he had in his possession one strap of that character which he claimed was made anterior to the date of said patent?

A. Yes, sir.

R. R. X Q. 352. Is that affidavit true in regard to the matter above quoted from it?

A. To the best of my knowledge it is.

ISIDOR BREMER.

Subscribed and sworn to before me this 15th day of December, 1876.

F. W. REBHANN,
Notary Public, N. Y. C.

DECEMBER 15, 1875.

Examination continued pursuant to adjournment.

EDWARD WILLIAM CROUCH, a witness sworn and examined on the part of the complainant, testified as follows:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Edward William Crouch, aged twenty-one years; residence 104 West Fifty-second street, New York City; occupation, I work in my father's store, George Crouch, the complainant, store of Crouch & Fitzgerald.

Q. 2. How long have you been in the employ of Crouch & Fitzgerald?

A. About two years.

Q. 3. Did you, while in their employ, visit the city of Philadelphia, and if so, when?

A. Yes, sir; about the middle of September, 1874.

Q. 4. Were you accompanied by any one else, and if so, whom?

A. Yes, sir; Mr. Isidor Bremer.

Q. 5. While in Philadelphia, where did you go?

A. To Mr. Rumpp's place of business?

Q. 6. State what occurred when you went to Mr. Rumpp's place of business?

A. I went there twice with Mr. Bremer; the first time, Mr. Rumpp was not in; we saw the book-keeper; Mr. Bremer said he had come to see Mr. Rumpp with reference to shawl straps; he understood that Mr. Rumpp had been infringing on the patent of Messrs. Crouch and Fitzgerald; the book-keeper asked him what the patent of Crouch & Fitzgerald consisted in; Mr. Bremer told him in the rigid bar and in the loop above the bar. I do not know whether it was in this interview or the subsequent one that the dictionary was shown to Mr. Bremer, and the definition of the word "rigid" as meaning "anything that cannot be bent"; Mr. Rumpp or the book-keeper told Mr. Bremer that they could bend any one of Crouch & Fitzgerald's bars, and that the word "rigid," as given in the dictionary, meant anything that could not be bent; the book-keeper appointed a time of meeting between Mr. Rumpp and Mr. Bremer, and we left.

148 Q. 7. Then you do not recollect whether the conversation occurred at the first or second interviews in reference to the dictionary?

(Objected to as already answered, leading, and immaterial.)

A. No, sir.

Q. 8. Did you visit Rumpp's place again; and, if so, with whom?

(Objected to as already answered.)

A. Yes, sir; with Mr. Bremer.

Q. 9. State whom you saw and what occurred on your second visit.

A. We saw Mr. Rumpp, the book-keeper, and there were also several other young men in the store. Mr. Bremer said he had come to see Mr. Rumpp about shawl straps; that he understood that Mr. Rumpp had been infringing on the patent of Messrs. Crouch & Fitzgerald. Mr.

Rumpp immediately got angry, and said he considered it a contemptible piece of business, and that Mr. Crouch must be a very contemptible and mean man to patent such a small thing as a shawl strap—a thing that anybody could make. He went on in this way for quite a while; he was very angry. Mr. Bremer interrupted him, and said that if he knew Mr. Crouch he (Mr. Bremer) was sure he would not speak of him as he was doing; that he considered Mr. Crouch a Christian and moral man. Mr. Rumpp said it was impossible for a man to be a good man and a moral man and patent such a thing as a shawl strap. Mr. Rumpp then asked Mr. Bremer how much he wanted as royalty for the straps he had made up. Mr. Bremer told him how much he wanted; I don't remember the amount. Mr. Rumpp then got angry again, and said that he knew Crouch & Fitzgerald to have settled with parties for less than that amount. Mr. Bremer told him he was mistaken, but he says (Mr. Bremer says) you will be willing to settle with us for so much, being less than the amount before mentioned. Mr. Rumpp said that he would give him (Mr. Bremer) a very large order for shawl straps if Crouch & Fitzgerald would not require any royalty from him. Mr. Bremer said he did not care how large an order he would give him; he would claim the royalty just the same, and that Crouch and Fitzgerald asked no more than what was right. Mr. Rumpp then agreed to settle for the second amount named. Mr. Bremer said, "Now, you think that Crouch & Fitzgerald are such mean men, now I will show you that they are not; we will settle with you for so much, being less than Mr. Rumpp was willing to settle for." The book-keeper then made out a statement for royalty and handed it to Mr. Bremer, and asked Mr. Rumpp how about those imported straps "on the road." Mr. Bremer then said to Mr. Rumpp, "Now, that is not right, Mr. Rumpp, for you to import those straps." Mr. Rumpp said he expected to settle for them altogether. Mr. Bremer then got an order from Mr. Rumpp for shawl straps. Mr. Rumpp asked Mr. Bremer if he should give him a check on the spot for the amount of statement. (Before this the statement was handed back to the book-keeper and the imported straps added to it.) Mr. Bremer said, "No, he did not want a check now; that it did not make any difference; he could settle altogether, the bill and royalty altogether."

(Question and answer objected to as immaterial.)

Q. 10. Did Mr. Rumpp in that interview mention an amount
149 at which Crouch & Fitzgerald had settled with other parties?

(Same objection.)

A. Yes, sir.

Q. 11. And is that the amount at which he stated himself willing to settle?

(Objected to as leading and immaterial.)

A. I don't know.

Q. 12. Do you recollect any of these amounts stated by Rumpp and Bremer?

(Same objection.)

A. No, sir.

Q. 13. Do you recollect whether the talk about the dictionary occurred at the first or second interview, or both?

(Objected to as already twice answered.)

A. No, sir; I don't recollect.

Cross-examined by Mr. BRIESEN on part of the defendant:

X Q. 14. Since when do you know Mr. Bremer?

A. Since he first came with Crouch & Fitzgerald.

X Q. 15. When was that?
A. In August, 1874.
X Q. 16. Before that time you never saw him, did you?
A. No, sir.
X Q. 17. Did Mr. Rumpp, at the interview referred to by you, say to Mr. Bremer that if it was not for his dislike of lawsuits he would show him the door, or words to that effect?
A. I heard him say he would like to pitch Mr. Bremer out. No, sir, not as I know of. I don't recollect him.
X Q. 18. Did Mr. Bremer name or mention any one or more parties to Mr. Rumpp who had admitted Mr. Crouch's patent and settled with him?
A. I don't remember that he did.
X Q. 19. Did not Mr. Bremer, after Mr. Rumpp had shown his anger, interrupt him and tell him that he, Mr. Rumpp, should not be so sure of his rights, and then mention several parties who had already acknowledged Mr. Crouch's rights in the matter?
A. Not that I know of.
X Q. 20. Did not Mr. Bremer, after Mr. Rumpp had shown his anger, interrupt him and tell him that he, Mr. Rumpp, should not be so sure of his rights?
A. I don't remember.
X Q. 21. Did Mr. Rumpp say anything about his fearing the heavy expenses of a law suit or words to that effect?
A. Not that I know of.
X Q. 22. Have you spoken with any one about the testimony you were to give in this case; and, if so, whom?
A. Yes, sir. Mr. Fitzgerald asked me what I could say about going to Mr. Rumpp's place with Mr. Bremer, and I told him. Mr. Bremer asked me what I could say; I told him. No one else. I spoke to Mr. Barnum about it—the lawyer in the case.
X Q. 23. Have you read or been told of the testimony Mr. Bremer has given in this case; and, if so, when?
A. No, sir.
X Q. 24. Did Mr. Rumpp, during the interview in question, say
150 anything about rigid bar shawl straps he had made before Mr. Crouch's alleged invention.
A. Yes, sir; he said he had made one or two for parties who had come in and ordered them.
X Q. 25. Are you sure that he said "one or two?"
A. No, sir.
X Q. 26. While in Philadelphia with Mr. Bremer, where did you go?
A. To Mr. Rumpp's place; also went to several other places of business. I remember going to Mr. Bains' place.
X Q. 27. And did you go to these other places of business on the same errand that took you to Mr. Rumpp?
(Objected to as immaterial.)
A. We went to every place of business to sell shawl straps and stamp all the infringement straps we found.
X Q. 28. And to settle for past infringements?
A. Yes, sir.
X Q. 29. Did you settle with any before you saw Mr. Rumpp?
(Same objection.)
A. I do not remember.
X Q. 30. On what terms did you settle with the others?
A. I don't know that I mentioned any others we settled with.

X Q. 31. Do you mean that you didn't settle with any others than Mr. Rumpp?

A. I don't remember.

X Q. 32. Did you stamp any shawl straps in Philadelphia during that stay there?

A. No, sir.

X Q. 33. Why not?

(Objected to as immaterial.)

A. We did not find any to stamp.

X Q. 34. Did not Mr. Bains have any?

(Same objection.)

A. I don't know.

X Q. 35. Which is the patent of Crouch & Fitzgerald, about which you have testified?

A. The patent for improvement in shawl straps.

X Q. 36. Why do you call it the patent of Crouch & Fitzgerald?

A. Because I think it is Crouch & Fitzgerald's patent.

X Q. 37. Have you any knowledge on that point?

A. Yes, sir; I think it is George Crouch's patent.

X Q. 38. But Bremer spoke of Crouch & Fitzgerald's patent, did he?

A. I don't recollect.

X Q. 39. Have you not so testified?

A. I think I did; but he might have said, the patent of George Crouch, or the patent of Crouch & Fitzgerald.

X Q. 40. Did the firm of Crouch & Fitzgerald at that time own the patent on a top loop for shawl straps?

(Objected to as immaterial.)

A. Yes, sir; strike that out; I don't know.

151 X Q. 41. Is that the loop above the bar which Mr. Bremer described to Mr. Rumpp?

(Objected as not within witness' knowledge.)

A. Yes, sir.

X Q. 42. Did Mr. Rumpp cause you to understand what he meant by saying "that anybody could make the shawl strap that Mr. Crouch had patented"?

A. Yes, sir.

X Q. 43. What was your understanding on that point?

A. He meant the shawl strap was such an easy thing to make that anybody possessed of ordinary intelligence could make it.

X Q. 44. He did not mean, did he, that they had been made with rigid bars before Crouch's invention?

A. No, sir.

X Q. 45. Of this you are quite positive, are you?

A. Yes, sir.

X Q. 46. You say that Mr. Bremer called Mr. Crouch a Christian. Do you know whether Mr. Bremer is a Christian himself?

(Objected to as immaterial.)

A. No, sir; I don't know.

X Q. 47. How or by what did you understand that Mr. Rumpp agreed to settle for the second amount named?

A. I don't know that he agreed to settle for the second amount named.

X Q. 48. Did the book-keeper hand the statement to Mr. Bremer, or did Mr. Rumpp?

A. I don't recollect which one it was.

X Q. 49. Did the book-keeper ask Mr. Rumpp about the imported shawl straps while making out the statement, or when?

A. Just after he had handed the statement to Mr. Bremer.

X Q. 50. Whom do you mean by he in the last answer?

A. Either the book-keeper or Mr. Rumpp.

X Q. 51. Did you read the statement when it was first handed to Mr. Bremer?

A. No, sir.

X Q. 52. When first did you read it?

A. I don't remember.

X Q. 53. Then you do not know of your personal knowledge, do you, that any change was made in that statement?

A. I saw the statement handed back to the book-keeper, and saw him writing on it, and saw it handed back to Mr. Bremer.

(Answer objected to as not responsive.)

X Q. 54. Question repeated.

A. I know that the book-keeper wrote something on it the second time.

(Same objection.)

X Q. 55. Question repeated.

A. Yes, sir; there was a change made in it; there was something written on it the second time.

X Q. 56. Do you know whether that second writing was as much as one line, or more?

A. No, sir.

X Q. 57. Did Mr. Bremer explain to Mr. Rumpp why he considered it wrong for Mr. Rumpp to have imported straps?

152 A. I don't recollect.

X Q. 58. What is the nature of Mr. Bremer's employment in Crouch & Fitzgerald's business?

A. I am not certain what it is.

X Q. 59. Is he salesman there, or does he superintend the manufacture of shawl straps?

A. He superintends the manufacture of shawl straps, and sells too.

X Q. 60. Did Mr. Bremer at the first interview, and before you had seen Mr. Rumpp, call for a statement of infringing shawl straps from the bookkeeper?

A. I don't recollect.

X Q. 61. Would you not recollect, had he done so?

A. Not necessarily.

X Q. 62. About which shawl straps did the bookkeeper speak when stating that they all would bend—those made by Mr. Rumpp, or those made by Crouch & Fitzgerald?

A. Those made by Crouch & Fitzgerald.

X Q. 63. Did he not explain to you that all those made by Mr. Rumpp would bend?

A. I don't recollect.

X Q. 64. Did Mr. Bremer ask Mr. Rumpp for a statement of imported shawl straps—I mean did he specially mention imported straps?

A. He asked Mr. Rumpp for a statement of all the shawl straps he had manufactured, imported, or had on hand that infringed on the patent of Crouch & Fitzgerald.

X Q. 65. Did Mr. Bremer deny to Mr. Rumpp that Crouch & Fitzgerald had settled with other parties on the second amount named?

A. Yes, sir.

X Q. 66. How often did you see the bookkeeper or any one else change the statement of Mr. Rumpp?

A. Once.

X Q. 67. Had it been oftener, would you have noticed it?

A. Yes, sir; I think I would. I wouldn't say I think I would, I know I would.

X Q. 68. Did you hear Mr. Bremer, after receiving the statement containing the imported straps, mention that it was not sufficient because it did not show that the straps accounted for were rigid bar shawl straps?

A. No, sir; I did not hear him say so.

X Q. 69. Who signed that statement?

A. I don't understand the question.

X Q. 70. Was that statement signed by Mr. Rumpp or by his bookkeeper?

A. I don't recollect.

X Q. 71. If Mr. Rumpp had taken the pen and signed it, would you have seen it?

A. Yes, sir; but I might not recollect it to this time.

X Q. 72. Is your memory not quite clear on the subject of that interview?

A. On some things my memory is clear, and on other things not.

153 X Q. 73. Have you given a complete statement of all those points relating to that interview on which your memory is clear?

A. That is a pretty hard question to answer; my memory might be refreshed on some things I did not think to speak to you about, but everything that I have mentioned positively is fresh in my memory.

Redirect examination:

R. D. Q. 74. In your answer to question 9, you state that Mr. Rumpp agreed to settle for the second amount named; in your answer to cross-question 47, you say that you do not know that he did agree to settle for the second amount named; what is the fact about that to the best of your recollection?

A. Mr. Rumpp asked Mr. Bremer how much he would settle with him for; Mr. Bremer told him an amount; that was the first amount; Mr. Rumpp said that he knew Mr. Bremer had settled for a less amount with parties; that was the second amount; Mr. Bremer then said, You are willing to settle for so much; I don't know whether this was the second amount or not, but it was an amount smaller than the first amount; Mr. Rumpp said yes, he was willing to settle for the last-named amount; Mr. Bremer then said he would settle with him, to convince him that Crouch & Fitzgerald were not grabbing and mean men (as he thought they were), for a less amount than the one Mr. Rumpp said he was willing to settle for.

E. W. CROUCH.

Sworn to before me this 15th day of December, 1875.

FRED. W. REBHANN,
Notary Public, N. Y. Co.

Examination adjourned to December 17, 1875, at 1 p. m.

FRED. W. REBHANN,
Notary Public, N. Y. Co.

Examination adjourned to January 7, 1876, at 10 a. m.

FRED. W. REBHANN, *N. P.*

JANUARY 7, 1876—1 p. m.

Examination continued pursuant to adjournment. Counsel present as before.

ALFRED A. CROUCH, a witness recalled on the part of complainant, being duly sworn, testified as follows:

Q. 1. What is the nature of your employment at No. 1 Maiden lane?

A. Cashier, bookkeeper, and salesman, all combined.

Q. 2. Do you keep the book or books in which the royalty account for settlements of infringements under Crouch's rigid bar shawl strap patent is entered.

A. Yes, sir.

Q. 3. Look at paper now shown you and state whether or not that is a list of the parties who have settled for infringements upon said patent contained in said account.

(Objected to as leading, and as without foundation, as it does
154 not appear that witness has any personal knowledge of the facts of settlements, and as not rebutting evidence.)

A. Yes, sir.

Paper offered in evidence and marked Complainant's Exhibit J, January 7, 1876.

(Objected to as incompetent.)

EXHIBIT J.

NEW YORK, *January* 6, 1876.

The following persons paid royalty for infringing on patent for rigid bar shawl straps:

1874 and 1875.

Joseph Cohen, Newark		$64 80
Rudolph Wolff, New York		150 00
Edgar, Farmer & Co., Newark		111 24
T. B. Peddie & Co.,	"	458 76
W. O. Headley & Son,	"	119 91
H. W. Poinier,	"	100 00
Schener Brothers, New York		150 00
D. S. Hammond,	"	50 00
D. C. Wilson & Co.,	"	35 00
H. Wolff & Co.,	"	126 00
Campfield & Wood,	"	20 00
A. & E. Wallach,	"	75 00
Edwards Bros., Brooklyn		100 00
Smith, Bourne & Co., Hartford		126 36
Sewell Rice, Worcester		60 00
William Merriam, Springfield		50 00
A. F. Ball,	"	90 00
Samuel Hipkiss	Boston	100 00
Young, Reed & Atwood,	"	14 58
Culbert Bros., New York		14 04

Complainant's Exhibit J.
January 7, 1876.

F. W. R., *N. P.*

Cross-examined by Mr. BRIESEN:

X Q. 4. Is that a list of all the parties who have settled for infringement of said patent?

A. Yes, sir.

X Q. 5. How do you know that?

A. My books will show it.

X Q. 6. How do you know that all the settlements are on the books?

A. Well, I know what the check is handed me for, and deposit it in the bank accordingly?

X Q. 7. How do you know what a check is handed you for?

A. I give the parties a receipt, generally.

X Q. 8. Who gave you the checks for the amounts specified in Exhibit J?

A. The parties who paid the royalty, I suppose.

X Q. 9. Did Young, Reed & Atwood hand you a check?

A. They did not, sir; they are an out of town house.

X Q. 10. How do you know that the money paid by Young,
155 Reed & Atwood, and the other out of town houses on Exhibit J, was paid for infringement of said patent?

A. Because they got a receipt for it.

(Answer objected to as not responsive.)

X Q. 11. Question X 10 repeated.

A. I can't remember what every man said; I am receiving checks every day and depositing them in bank.

X Q. 12. Did not the firm of Macy, or Macy & Co., of this city, settle for infringement of said patent?

A. I don't know how the settlement was made with Macy & Co.

Counsel for defendant desires it to be recorded that before answering the last question the witness asked, "Am I obliged to answer that question?"

To which counsel of complainant replied: "If you know anything about it, state what you know; and if you don't, say so."

(Answer objected to as not responsive.)

X Q. 13. Question X Q. 12 repeated.

A. I don't know.

X Q. 14. Then you don't know that Exhibit J contains a complete list of settlements, do you?

A. I do; yes; I know it contains a full list of settlements.

X Q. 15. Then you know that Macy & Co. did not settle because they are not on said list; is that it?

A. They have not paid me any money; whether they settled in any other way I don't know.

X Q. 16. How many stores have Crouch & Fitzgerald in the city?

A. Two.

X Q. 17. Do you receive all the money paid into the up-town store?

A. Yes, sir.

X Q. 18. Who brings it to you?

A. A boy.

X Q. 19. Was any of the money mentioned in Exhibit J paid into the up-town store?

A. No, sir.

X Q. 20. All at the Maiden lane store?

A. Yes, sir.

X Q. 21. On what day did you first see F. Meinberg?

(Objected to as not proper cross-examination.)

A. I can't say without referring to my book.

X Q. 22. Which book?

A. Royalty book.

X Q. 23. What does that show with reference to him?

A. Merely tell the date when he came into the store.

X Q. 24. What has that to do with the royalty book?

A. Hadn't anything to do with it; I merely made a memorandum in it.

X Q. 25. When did you make that memorandum?

(Objected to as not proper cross-examination.)

A. I can't tell.

X Q. 26. What caused you make that memorandum?

(Same objection.)

156 A. That I can't tell.

X Q. 27. Did any one request you to make it?

(Same objection.)

A. I don't remember.

X Q. 28. How much time elapsed between his call and the entry of that memorandum?

(Same objection.)

A. I don't know.

A. A. CROUCH.

Subscribed and sworn to before me this 7th day of January, 1876.

FRED. W. REBHANN,
Notary Public, New York Co.

JANUARY 7, 1876—2 p. m.

JAMES LEITCH, a witness on the part of complainant, recalled.

Q. 1. Look at the strap now shown you, and state whether it is one of Crouch & Fitzgerald's make.

A. Yes.

Q. 2. What distinguishing number or name do they give to that style of strap?

A. No. 7.

Q. 3. When, so far as you know, did they first put that style upon the market?

(Objected to as immaterial.)

A. February, 1869.

Strap offered in evidence and marked Complainant's Exhibit K, January 7, 1876.

(Objected to as incompetent and immaterial.)

Q. 4. Is this exhibit K identically similar in appearance and construction to the No. 7 put upon the market by Crouch & Fitzgerald in February, 1869?

(Objected to as leading and immaterial.)

A. Yes.

Q. 5. Was that style, No. 7, sold by Crouch & Fitzgerald in Boston in 1869? If so, when and to whom?

(Same objection and as without foundation.)

A. Yes; in April, 1869, to S. G. Cheever & Co.

Q. 6. State to what other parties in Boston, and when, the style No. 7 was sold in 1869.

(Same objection.)

A. Easter & Winship, August 9, 1869; F. K. Daggett & Co., August 10, 1869; Skillen, Kendell & Co., August 10, 1869; this is all I remember in Boston.

Q. 7. Have you examined the New York City Directory from 1853 to 1867, inclusive, with reference to the name of James Hamilton?

(Objected to as incompetent.)

A. Yes, sir.

Q. 8. Look at paper now shown you, and state what is.

157 A. The record I made from the directory; part I made, part I did not; I examined it all; I did not make 1853, 1854 in that paper; all the rest I did.

Q. 9. Did you make an examination of the directory for these years, and verify the last two memoranda?

(Same objection.)

A. Yes.

Q. 10. Is the memoranda or paper referred to true and correct?

(Same objection.)

A. Yes, as in the directory.

Paper offered in evidence and marked Complainant's Exhibit L, January 7, 1876.

(Objected to as incompetent.)

EXHIBIT L.

1855-'6 Hamilton, James, trunks, Prince, cor. Broadway.
1856-'7 " " " 567 B'way, h. 519 Broome.
1857-'8 " " " " " " " "
1858-'9 " " " " " " " "
1859-'0 Not in directory.
1860-'1 " " "
1861-'2 " " "
1862-'3 " " "
1863-'4 " " "
1864-'5 " " "
1865-'6 " " "
1866-'7 Hamilton, James, trunks, 1 Vesey street, h. 321 York street, J. C.
1853-'4 James Hamilton, trunk maker, house 521 Broome.
1854-'5 " " " " " " "

Complainant's Exhibit L, January 7, 1876.

JAMES LEITCH.

Subscribed and sworn to before me this 7th day of January, 1876.

FRED. W. REBHANN,
Notary Public, N. Y. Co.

Adjourned to January 11, 1876, at 1 p. m.

FRED. W. REBHANN,
Notary Public, New York Co.

Adjourned to January 14, 1876, at 1 p. m.

Examination of witness on the part of the complainant continued pursuant to adjournment, this 14th day of January, 1876.

Present, E. B. Burnham, for complainant; A. V. Briesen for defendant.

ISIDOR BREMER, a witness on the part of the complainant, being recalled, testified as follows:

Q. 1. Look at the paper now shown you, and state when and where you first saw it, if you ever saw it before.

(Objected to as not rebuttal.)

158 A. I saw it in Mr. Green's office first in Boston, July 21st, 1874.

Q. 2. Were you present when that paper was drawn and sworn to? (Same objection.)

A. I was.

Q. 3. Did you see George A. Easter sign it, and did he swear to it in your presence?

A. He signed it and swore to it in my presence.

Q. 4. How did he come to sign and swear to it; at your request?

A. At my request.

Q. 5. What became of it after he swore to it?

A. I took it.

Paper offered in evidence and marked Exhibit M, January 14, 1876

EXHIBIT M.

I, George A. Easter, of Boston, Suffolk County, Massachusetts, of lawful age, do depose and say, I am by profession a trunk maker and salesman. In the fall of the year 1866, being then foreman in the trunk factory of Easter & Winship, I asked Mr. S. H. Hatch to cut me out and fit up a shawl strap, he being then in my employ. He cut it out and stitched the handle and stitched the buckles on the straps. I then took it and stitched the bar and finished it. It is the one now before me marked "W. C. G. No. 1," and "Easter."

I carried it home and gave it to my wife; she used it about three or four years, then gave it to a lady friend in whose possession it has been until the present time.

I still hold another strap in my possession which S. H. Hatch made for me a few months after he had made the one just described with a stiff iron bar in it.

GEO. A. EASTER.

SUFFOLK COUNTY,
Boston, July 21st, 1874.

Then personally appeared Geo. A. Easter and subscribed and swore to the above before me.

W. C. GREEN,
Notary Public and Jovs Pacis.

Complainant's Exhibit M, January 14, 1876.

F. W. R., *N. P.*

ISIDOR BREMER.

Subscribed and sworn to before me this 14th day of January, 1876.

FRED. W. REBHANN,
Notary Public, New York Co.

Complainant offers in evidence letter of C. F. Rumpp, dated August 11, 1874, and marked for identification August 20, 1875. Same marked Exhibit N, January 14, 1876.

159 EXHIBIT N.

[C. F. Rumpp, manufacturer and importer of fancy leather goods.]

PHILADELPHIA, *Aug.* 11, 1874.

CROUCH & FITZGERALD:

GENTS: Since being notified by you of your patent on shawl straps, I

have discontinued manufacturing and importing them, but I find I cannot easily do without them, and I would be pleased to know, in order to manufacture and import, what would be your conditions and terms for selling. An early reply will greatly oblige.

Yours,

C. F. RUMPP.
J. R.

Complainant's Exhibit N, January 14, 1876.

F. W. R., *N. P.*

(Objected to as incompetent and not rebutting evidence.)

Complainant offers in evidence certified copy affidavit of Seth H. Hatch, dated October 17, 1874, read in opposition to the motion for preliminary injunction herein.

Same is marked Exhibit O, January 14, 1876, it being the affidavit referred in question 61 of Hatch's testimony.

EXHIBIT O.

BOSTON, *October* 17, 1874.

Seth H. Hatch, being duly sworn, deposes and says, that he is a trunk and bag maker by trade; that he is fifty-two years old, and resides at No. 6 Mount Vernon street, East Somerville, in the county of Middlesex, State of Massachusetts; and the deponent further says that he assisted Mr. George H. Easter in making this shawl strap, marked Exhibit B, in the fall of 1866. And the deponent further says that prior to the above time and not later than 1864, he has made, while in the United States Army and stationed at Franklin, Louisiana, two shawl straps provided with an iron cross bar, to which a leather handle forming loops on each end for the straps to pass through was riveted. And the deponent further says that he riveted the iron bars underneath the handle to prevent the straps drawing towards each other. And the deponent further says that since that time and prior to 1866, he has made several shawl straps identical with the above described. And the deponent further says that in eighteen hundred and sixty-two he made one shawl strap having a rigid cross bar made of wood in combination with a leather handle, the ends of which were bent over to form a loop for the straps to pass through, which bar was extended under the loops of the handle, so that the straps would rest on the top of the bar.

SETH H. HATCH.

DISTRICT OF MASSACHUSETTS, *ss:*

On this 17th day of October, 1874, personally appeared the
169 above Seth H. Hatch, and made oath that the foregoing affidavit by him subscribed was true.

Before me.

[L. S.]

WINSLOW WARREN,
Commissioner of U. S. Circuit Court.

A true copy.

S. D. OLIPHANT, *Clerk.*

Complainant's Exhibit O, January 14, 1876.

F. W. R.

Complainant offers in evidence certified copy affidavit of George A. Easter, dated October 17, 1874, read in opposition to the motion for preliminary injunction herein.

Same is marked Exhibit P, January 14, 1876.

EXHIBIT P.

BOSTON, *October* 16, 1874.

Geo. A. Easter, being duly sworn, deposes and says that he is thirty-eight years old, and resides at No. 362 Bunker Hill st., Charlestown, county of Suffolk, State of Massachusetts; that he is salesman for Easter & Winship, manufacturers of trunks, bags, valises, etc., No. 7 Elm st., Boston, Massachusetts, and the deponent party says that this shawl strap, marked Exhibit B, was made by himself and Mr. Seth H. Hatch in the fall of the year 1866.

GEO. A. EASTER.

DIST. OF MASS., ss:

On this 17th day of October, 1874, personally appeared the above George A. Easter and made oath that the foregoing affidavit by him subscribed was true.

Before me.

[L. S.] WINSLOW WARREN.

A true copy.

S. D. OLIPHANT, *Clerk.*

Complainant's Exhibit P, January 14, 1876.

F. W. R.

(Objected to as not rebuttal.)

Complainant offers in evidence letter of C. F. Rumpp, dated September 24, 1874, and marked for identification August 20, 1875.

Same is marked Exhibit R, January 14, 1876.

EXHIBIT R.

Letter shown witness Rumpp Aug. 20, 1875, marked for identification E. C. W., notary.

[C. F. Rumpp, manufacturer and importer of fancy leather goods.]

PHILADELPHIA, *Sept.* 24, 1874.

Messrs. CROUCH & FITZGERALD:

GENTLEMEN: Since the first visit of your Mr. Bremer I have
161 made search among my records, and find that I can substantiate my assertions of priority in the manufacture of "rigid cross-bar straps."

I have ascertained that I have made stiff bars several years previous to your date of patent, Sept., 1868, and I have now in my possession a strap made (2) two years prior to 1868, embodying the principles of your claim. The workman who made it is still with me; the salesman who used it, and several other parties who were witnesses of its use. All, individually and collectively, can swear or take oath to the positive date of its use and manufacture.

In order to test the validity of claim I have taken eminent legal advice on the subject, and consulted your printed testimony in your suit vs. Henry Speer, and learn that, being in possession of such indisputable facts, you could not by any possible means have a case against me, and will therefore, through this medium, disclaim all rights of a royalty or infringement claim against me, and will not hold myself liable for any payments on ac. of the alleged infringement.

Knowing I have all possible right and law upon my side, but wishing to spare you all expense which you might incur, I will make the following propositions: That I will not manf'r any more shawl straps, buy all I possibly can from you, and endeavor to create a demand; and also, to still better your side, will send on the imported ones now in custom-house to be stamped by you.

Hoping to be favored with an early reply,

I am yours,

C. F. RUMPP.
A.

I am in need of straps, especially the No. 2 Russia. If you cannot send the whole order, send the No. 2 at once.

Complainant's Exhibit R, January 14, 1876.

F. W. R., *N. P.*

(Objected to as immaterial and not rebuttal, as it does not appear that said letter differs from defendant's Exhibit 20.)

Complainant offers in evidence draft of letter dated January 5, 1869, written by T. W. Porter, and marked for identification August 25, 1875.

EXHIBIT S.

[Office of American Sleigh & Carriage Iron Company, No. 11 Hawkins street. T. W. Porter, president; A. K. P. Trask, vice-president; C. L. Marston, secretary and treasurer.]

BOSTON, MASS., *January* 5, 1869.

Messrs. CROUCH & FITZGERALD, *New York:*

DEAR SIRS: On the 22d day of December last we obtained letters patent for improved shawl and blanket straps, and learning that a similar article was sold by A. McDonald, School street, this city, I called upon him this day, and there learned that you had obtained a patent
162 upon what appears to be the same article as our own, and upon looking at your claim I find it similar to ours.

We are preparing to manufacture a large quantity of them, but think it would be better if the two interests could be united in one, in some manner so that there should be no competition of rival interests. We believe that upon the question of priority of invention, we must be ahead, and think we could satisfy you to that effect.

It is, of course, an error on the part of the Patent Office to issue two patents upon the said invention without first declaring an interference, but they seem to have done so, and it only remains for us to see if the matter can be amicably arranged.

We are willing to do whatever justice and equity may demand, and doubt not that you are similarly disposed.

If in your opinion the question involved merits your attention, we should be happy to hear from you, or, if you are in Boston, to meet you face to face. Our patent is dated December 22, 1868, No. 85129, issued to T. W. & H. K. Porter.

Very respectfully, your obedient servant,

T. W. PORTER.

Marked for identification August 25, 1875.

E. H., *N. P.*

Complainant's Exhibit S, January 14, 1876.

F. W. R., *N. P.*

Same is marked Exhibit, S, January 14, 1876.

(Objected to as incompetent and not rebutting.)

Complainant offers in evidence certified copy letters patent No. 166473, issued to Franz Meinberg, under date of August 10, 1875.

Same is marked Exhibit T, January 14, 1876.

(Objected to as not rebuttal.)

Complainant offers in evidence certified copy of file wrapper on application of Franz Meinberg for patent 166473, August 10, 1875.

Same is marked Exhibit U, January 14, 4876.

(Objected to on the ground that the defendant in this action cannot be prejudiced by the statements of parties who were not subjected to cross examination, and as incompetent and not rebuttal.)

Complainant offers in evidence affidavit of Seth H. Hatch, dated July 21, 1874, and marked for identification September 7, 1875.

Same is marked Exhibit V, January 14, 1876.

EXHIBIT V.

Marked for identification, Sept. 7th, 1875.—E. C. W., Notary.

I, Seth H. Hatch, of Somerville, Middlesex County, Massachusetts, being of lawful age, do depose and say, that I am by trade a trunk maker; that in the fall of the year (1861), eighteen hundred and sixty-one or thereabouts, but, as I am sure, it was in the year 1861, I was in the city of Baltimore, Maryland, and in the Army of the United States as a saddler, making a strap to keep my blankets together. I took two
163 common straps and the front piece to a bridle, run the two straps through the loops at the end, and after use of them once or twice, I found the straps drew together in carrying it. To obviate that trouble, I took a piece of wood and nailed the bridle front piece to it, making it rigid or stiff. I then took another old bridle front piece and looping it on the first front piece, which was nailed to the wood, I nailed or riveted it to the first front piece for the purpose of a handle. Afterwards, in Louisiana, in Franklin, in the year 1863, in the winter before 1864, I made two straps for the same purpose, out of the blade of an old sabre. The blacksmith forged them out. Taking the separate pieces as they were forged, I covered them with leather taken from the battery wagon, making them as follows: The iron was covered with leather the whole length of the iron, leaving two loops, one at each end, for the straps. The handle was riveted on through holes punched through the sabre blade at the time of forging. Those straps I lost at Red River campaign. In the fall of 1865 I made another, as nicely as I could, for my daughter, and she put it in the fair of the Orthodox church, Somerville, for sale. It was one straight piece of iron covered with leather, with three (3) loops and three straps. In the fall of 1866, Mr. Easter (George A., I mean), foreman in the trunk factory of Easter & Winship, came to me and asked me to cut out a shawl strap, which I did, and which is the one marked ("W. C. G., No. 1," and "Easter"). Mr. Easter stitched the frame part of the strap and I stitched the handle and the buckles on the strap. Subsequent to those a few months, I made, at the request of Mr. Easter, (George A.), a nice strap, which Mr. Easter still holds in his possession. Similar to the above, I have made them of steel trunk springs since that time.

SETH H. HATCH,

Suffolk Co., Boston, Mass.

Subscribed and sworn to before me, July 21st, 1874.

W. C. GREEN,
Notary Public and Justice of the Peace.

Complainant's Exhibit V, January 14, 1876.

F. W. R., *N. P.*

Complainant rests.

Depositions of Emma F. Dodge and Annie J. Baker, witnesses of full age, taken before me, F. W. Sewall, notary public, in and for the county of Lincoln, State of Maine, duly commissioned and sworn, on the 9th and 10th days of November, 1875, at Wiscasset, Maine, in the suit of George Crouch against William Roemer, now pending in the United States circuit court, district of New Jersey, S. M. Parsons, esq., of New York City, appearing for complainant, and conducting the examination of said witness on behalf of the complainant, and John L. S. Roberts, of Boston, appearing for the defendant, and conducting said examination on behalf of the defendant, the said witnesses and each of them having first been by me duly sworn to true answer make to the interrogatories and cross-interrogatories that should be put to them.

The said EMMA F. DODGE, being by me first duly sworn as aforesaid, proceeded, in answer to the following questions, to testify as follows:

164 Q. 1. Name, residence, and occupation?

A. Emma F. Dodge; Wiscasset; age, 28.

Q. 2. Do you know any of the parties to this suit?

A. No, sir.

Q. 3. Have you ever seen this shawl strap before?

(No. 27, defendant's exhibit, is here shown to witness by plaintiff's counsel.)

A. No, sir; I never saw that shawl strap; I don't think that is her writing; the most I can tell by is the writing; the shawl strap looks natural; Wiscasset, Maine, looks like Carrie Elms' writing.

Q. 4. Will you please examine very carefully the writing on the cross-bar of the strap, "Carrie Elms, Wiscasset, Maine," and say in whose handwriting, to the best of your judgment, it is?

(Objection, as incompetent and irrelevant.)

A. The words, "Wiscasset, Maine," looks like Miss Carrie Elms' writing; as to the words, "Carrie Elms," I am not sure.

Q. 5. Are you acquainted with the handwriting of Carrie Elms?

A. Yes, sir; I am.

Q. 6. Are the words Carrie Elms in her handwriting?

(Objected to, it being already answered, as she is not sure of it.)

A. I have answered that once before; that I am not sure.

Q. 7. What do you mean by saying you are not sure?

A. That it does not look so much like her writing as Wiscasset, Maine.

Q. 8. Do you mean to say or have it understood that you are of the impression that the words Carrie Elms are in her handwriting; that you are not so sure of it as you are of the words Wiscasset, Maine?

(Objected to as incompetent, irrelevant, and leading.)

A. Yes, sir.

Q. 9. You said, in one of your answers, that this shawl strap looked natural: please explain what you meant by that?

A. It looks like the shawl strap given her by her cousin, Miss Hatch, daughter of Seth Hobart Hatch, of Somerville, Mass.

Q. 10. On examining the strap and the writing, do you feel positive that it is the same strap?

A. Yes, sir.

Q. 11. To whom does this strap belong?

A. Carrie Elms, of Wiscasset, Maine.

Q. 12. How long has she owned it?

A. The first time I saw it was in the summer of 1869, July or August.

Q. 13. When was it presented to her by her cousin?

A. I don't know.

Q. 14. How do you know that it was given to her by her cousin?

A. She told me so.

(Objection made to the answer.)

Q. 15. How came she to tell you so?

(Objected to as irrelevant and incompetent.)

A. She always tells me everything.

165 Q. 16. Please state the circumstances under which you first saw it in the summer of 1869?

A. After her cousin came from Boston, I was over there to Carrie's house the next day, and she showed it to me, and among her other presents, she showed me this shawl strap.

Q. 17. Did she tell you at that time who gave her the present?

(Objected to as incompetent.)

A. Yes, sir; that her cousin, Miss Hatch, gave it to her.

Q. 18. Did she not say that it was a present from her uncle, Seth Hobart Hatch?

(Objected to as incompetent, irrelevant, and leading.)

A. I don't remember.

Q. 19. Are you very intimate with Carrie Elms, and were you at that time?

A. Yes, sir.

Q. 20. How long has that intimacy been?

A. From childhood.

Q. 21. You have stated that she told you everything; do you mean by that that she told you of all her presents, as well as of other matters connected with her?

A. Yes, sir.

Q. 22. As soon as they were received?

A. Yes, sir.

Q. 23. Can you say that Carrie Elms did not say to you that this shawl strap was a present from her uncle, Seth Hobart Hatch?

(Objected to as incompetent and irrelevant.)

A. I don't remember her saying so.

Q. 24. Don't you recollect saying to any one of late that it was a present from her uncle?

(Objected to as incompetent, irrelevant, and leading.)

A. I might have said so

Q. 25. How came you to say so?

(Objected to as assuming that witness has said so.)

A. I knew that her uncle made the shawl strap for her, or supposed that he did; I should have put it that her uncle Hobart made the shawl strap.

Q. 26. What was the appearance of this strap when you first saw it?

A. I could not say that it had ever been used or not; I could not remember about that.

Q. 27. How did it look to you?

A. I can't remember; I never examined it so closely as all that.

Q. 28. What kind of presents were the others received at the same time?

A. There were many, but I can't remember.

Q. 29. Were any of them of leather?

A. I don't remember.

Q. 30. I wish to refresh your recollection; have you not stated of late, several times, that this shawl strap was perfectly new when Carrie Elms received it?

(Objected to as incompetent and leading.)

A. No, sir.

166 Q. 31. Have you not stated that it was perfectly new when you first saw it?

(Objected to.)

A. No, sir; I haven't.

Q. 32. Don't you recollect saying last evening to Mr. Fitzgerald and to Mr. Parsons that the shawl strap that Carrie Elms received as a present in August, 1869, was a perfectly new strap? The two gentlemen now present are referred to.

A. I may have said that in my conversation, but when I think of it, I cannot say whether it was a new strap or not.

(Last part of answer objected to as not responsive.)

Q. 33. Did you not state some weeks ago to Annie Baker, of Wiscasset, that the strap referred to was a perfectly new strap when Carrie Elms received it, or when you first saw it?

(Objected to.)

A. I don't remember saying those words.

Q. 34. Did you say anything to that effect?

(Objected to.)

A. I told Annie, Carrie had a present of a shawl strap, but don't remember saying anything about its being new.

Q. 35. Did you state to her from whom it was a present?

A. I don't think I did. I said her uncle Hatch made it.

Q. 36. What now is your best recollection as to the condition of the strap when you first saw it?

A. Well, I can't say that it looks any different from what it does now.

Q. 37. Do you know Seth Hobart Hatch?

A. Yes, sir.

Q. 38. When did you last converse with him?

A. Last evening.

Q. 39. Was your conversation in relation to this strap?

A. No, sir.

Q. 40. Was anything said in reference to your testimony to be given in this case about the strap?

A. There was. Mr. Roberts asked me if I had been summoned. I told him I had not.

Q. 41. State what further was said.

A. I don't know as I can remember the exact conversation. I know what I said. I said I thought I could tell the writing and tell the strap, and that it was given to Carrie, and when it was.

Q. 42. Mr. Roberts and Mr. Hatch were together, were they not, at that interview?

A. Yes, sir.

Q. 43. About what time was this conversation?

A. About five o'clock.

Q. 44. When did you next see Mr. Hatch, and where?

A. At the hall door, down here this morning, and in this office when my deposition is being taken.

Q. 45. You have stated that Carry Elms had other presents at the time this strap was given her. Were those presents new articles?

A. Yes, sir.

Q. 46. Can you name any other article besides this strap?

A. Gloves, necktie. I can't say that those were from her cousin.

Q. 47. When you first saw this shawl strap was her name on it?

167 A. I think it was.

Q. 48. Did you at that time see another shawl strap of the same kind?

A. No, sir.

Q. 49. Did you about that time see another shawl-strap?

A. This is the only shawl-strap I ever saw.

Q. 50. Don't you recollect that Miss Hatch at that time, while on a visit to Carrie, in July or August, 1869, brought with her two shawl straps?

A. The only knowledge I have is this one; it is the only one I know anything about.

Q. 51. Have you not stated of late that Miss Hatch brought with her at that time two shawl straps?

(Objected to, that on the ground that witness is not thereby informed to whom she may have stated such conversation.)

Question withdrawn.

Q. 52. Have you not so stated to Mr. Fitzgerald and Mr. Parsons, here present, and also to Annie Baker?

A. I never stated she brought two shawl straps, to my knowledge.

Q. 53. I did not ask you whether you made the statement of your own knowledge. My question is, whether you made such a statement itself to them, or either of them, without reference to its being made on your own knowledge or not.

A. If I did, I did not make it on my own knowledge.

Q. 54. Did you make it?

A. There was some talk about two straps; but I did not know anything except about the strap Carrie had.

Q. 55. What was that talk about the two shawl straps?

(Objected to as incompetent.)

A. I can't remember.

Q. 56. Have you had any conversation or communication within twenty-four hours with Mr. Hatch here present, Seth Hobart Hatch, or any one else, about the condition or appearance of this strap, when you first saw it?

A. No, sir.

Q. 57. From whom did you have your information about this strap, or the two straps you have spoken of?

(Objected to on the ground that it assumes witness has any information of straps.)

A. From Carrie Elmes. I don't remember anything about two straps; about this strap is the only one I know anything about.

Q. 58. Did you see a letter brought to you by Annie Baker [making inquiries in reference to a shawl strap with the name of Carrie Elmes on it?]

(Objection to question enclosed in brackets as incompetent, also on the ground that said letter did not make any such inquiries.)

A. I heard it read.

Q. 59. Do you now recollect the answers you gave to those inquiries?

(Objection.)

168 A. I remember of saying that I knew Carrie; that she had a present of the strap, and when she had it.

Q. 60. Do you now recollect saying that the strap was a new one?

(Objection.)

A. No, sir.

Q. 61. Did you have a conversation with Carrie Elmes after hearing the letter referred to in relation to this strap, and the inquiries made?

A. I commenced to talk with her, but she was very sick at the time, and she couldn't remember much about it, and I gave it up.

Q. 62. Give the conversation as far as it went.

(Objected to as incompetent, irrelevant, and immaterial.)

A. I asked her if she remembered when and where it was she wrote her name on this strap, but she could not remember anything about it; that was all.

Q. 63. What information did you give to Annie Baker when she called upon you in reference to the inquiries made in the letter spoken of?

(Objected to as incompetent, irrelevant, and immaterial.)

A. All the information I gave Annie was that I knew Carrie, and when the strap was given to her.

Q. 64. Did you not tell her also, in answer to those inquiries, that you knew the strap was a new one, sent to Carrie by her uncle, and that his daughter came here with two—one for herself and one for Carrie?

(Objected to on the ground that she has already answered the question in response to other interrogatories herein put to her.)

A. I never mentioned two straps to Annie; I do recollect telling Annie that Carrie had one sent her; I don't recollect telling Annie that it was a new one.

Q. 65. Will you swear that you did not, in answer to those inquiries, say that you did not to tell Annie Baker that you knew the strap was a new one?

A. No; for I did not know it, and I did not say to Annie Baker that it was a new one, for the word "new" was not used.

Q. 66. What is the condition of Carrie Elmes now?

A. She isn't able to see any one on account of sickness.

Q. 67. I will read to you the letter referred to in the foregoing testimony.

(Plaintiff's counsel here reads and puts in evidence Exhibit Z, F. W. S., N. P., and asks, Do you recollect hearing this letter read to you by Annie Baker?)

A. I do.

Q. 68. What was your reply?

(Objected to on the ground that there was no reply required or asked in said letter, also on the ground that witness has already answered the question of what took place and said by her at the time said letter was read to her by Miss Annie Baker.)

A. I answered it before—that I knew Carrie, and knew that she had a present of a strap, and wrote her name on it.

Q. 69. Did you then state to her that she received the shawl strap as a present from her uncle, Seth H. Hatch, in August, 1869?

169 A. I did not say that she had received it as a present from her

uncle, but that he made it; I did state that she received it in August 1869.

Q. 70. Did you then state when Carrie Elmes wrote her name on it, and you saw her do it?

A. I did, and afterwards corrected it.

Q. 71. Did she afterwards call upon you and ask you whether the strap was a new strap?

A. She came into the store soon afterwards, and what she asked me I could not say, as I was very busy.

Q. 72. Have you no recollection about it?

A. No, I haven't.

Q. 73. Do you recollect what answer you gave her?

A. I do not.

Q. 74. Do you recollect her making the inquiry of you whether there were two shawl straps brought down by Miss Hatch?

A. I do not.

Q. 75. Do you recollect the answer that you made?

A. I do not.

Q. 76. Did you at the time alluded to, or at any other time, in answer to her inquiries, say that the strap was a new one, sent to Carrie Elmes by her uncle, and that his daughter came here with two—one for herself and one for Carrie, and that you knew it (Exhibit 27) was a perfectly new strap?

(Objected to on the ground that the question has been asked and answer several times already by witness; also that it is incompetent, irrelevant, and leading.)

A. I never made that remark; Annie never asked me whether it was a new strap.

Cross-examination:

X Q. 77. Have you ever used the shawl strap belonging to Miss Carrie Elmes, and which has been here produced (Exhibit 27); and if so, when and upon what occasions, if you now remember?

A. I have used it two or three times, year ago this fall and before that; I can't remember when.

X Q. 78. Did you ever see Carrie Elmes using it, or know of her using it; if so, how many times, and upon what occasions?

(Objected to as immaterial.)

A. I have seen her use it; the only time I can remember was two years ago last July.

X Q. 79. State whether the appearance of the strap now shown you, and designated as Exhibit 27, has any different appearance from what it did when you saw it or used it on those several different occasions; and if so, state in what particular.

A. It has been used some; that is the only difference I see in it.

X Q. 80. Are you acquainted with the outward appearance of articles made of leather, so as to be able to state whether the same were newly made or not?

A. I am not.

X Q. 81. Were you at that time?

A. No, sir.

X Q. 82. Will you now say that the strap which was shown you
170 by Carrie Elmes in July or August, 1869 (Exhibit 27), was at that time a new strap?

A. I can't say.

X Q. 83. Have you any interest, direct or indirect, in this suit now pending and wherein you have given this deposition? If so, state what.

A. I have none.

Redirect:

R. D. Q. 84. Did you at the time alluded to in interrogatory No. 76, or at any other time, in answer to the inquiries of Miss Annie Baker, say that you knew the strap was a new one, sent to Carrie Elmes by her uncle, and that his daughter came here with two—one for herself and one for Carrie, and that you knew it was a perfectly new strap?

(Objected to because the inquries set forth in said interrogatories have already been put and answered several times, and also same as incompetent, immaterial and irrelevant.)

A. I did not.

EMMA F. DODGE.

Sworn to before me, this 9th day of November, 1875.

F. W. SEWALL,
Notary Public.

The said ANNIE J. BAKER, being by me first duly sworn, as aforesaid, proceeded, in answer to the following questions, to testify as follows:

Q. 1. What is your name, residence, age, and occupation?

A. Annie J. Baker, Wiscasset, Me.; age, thirty years; no occupation, excepting taking care of my mother.

Q. 2. Are you acquainted with any of the parties to this suit?

A. I am not.

Q. 3. Are you acquainted with Emma F. Dodge, of Wiscasset, Me.?

A. I am.

Q. 4. Exhibit Z, F. W. S., N. P., being shown to witness, she is asked, Have you seen this paper before; if so, when?

A. I have; it was a day or two after its date.

Q. 5. Did you about that time call upon Emma Dodge and read it to her?

A. I did, in her own house.

Q. 6. What answer, if any, did she give to you when you read it?

(Objected to by defendant's counsel, on the ground that it is incompetent, irrelevant, immaterial, and if put for the purposes of contradicting the testimony of the plaintiff's witness, Emma F. Dodge, inadmissible.)

A. Just what I wrote down on this paper; I took her words and went right home and put them down on this paper, on the back.

Q. 7. How far is her home from your home?

A. Only a few steps; two or three minutes' walk.

Q. 8. Will you please state what she said in answer?

171 (Objection same as made to interrogation 6, and also that the same is hearsay testimony.)

A. She said Carrie Elms received the shawl strap from her uncle, Seth H. Hatch, in August, 1869; it was brought to her by his daughter, her cousin, who came on a visit, and she wrote her name on it, and that she saw her do it.

Q. 9. Did you afterwards call on Emma Dodge and make any farther inquiries respecting the shawl strap referred to? And if so, state what inquiries you made, and the answer to the same, and when it was.

(Objection same as interrogation 6.)

A. I did; it was Saturday afternoon, after the mail came in, about half past four; it must have been the 9th or 10th of October; I asked her if the strap was new, or if it had been used before; she answered

it was perfectly new, and her cousin had one just like it; nothing more was said about it.

Q. 10. Did you make a memorandum of her answer at the time, or did you state to any one what her answers were, and see them written down? I refer to the second interview.

(Objection. First, question is leading; also objectionable from the same grounds as stated in interrogatory 6.)

A. I came home and told my mother, and she wrote what I told her.

Q. 11. Told her what?

(Objection same as interrogatories 10 and 6.)

A. What I testified to a few moments ago.

Q. 12. Did you see her write down what you told her?

(Objected to as immaterial, incompetent, and leading, and suggesting to the witness an answer.)

A. I stood by her side and saw her write it.

Q. 13. Do you recollect whether Miss Dodge said anything about another shawl strap; and if so, what?

(Objected to as leading, and also same objection as in interrogatory 6.)

A. I have answered that question once.

(Defendant's counsel here requests magistrate to enter upon the record that when witness had answered the question as above, plaintiff's counsel suggested to her that she had only answered it in part, to which defendant's counsel objects.

Plaintiff's counsel objects to the entry, and says he made the remark as a fact in the examination.)

Q. 14. Will you please examine the papers now shown you, and state whether the answers that you told your mother and saw her write down is the paper that she then wrote?

(Objected as incompetent, irrelevant, immaterial, and inadmissible, same as interrogative 6.)

A. This is the paper.

Q. 15. Does this paper refresh your recollection as to the answers that Emma F. Dodge made to your inquiries on the second interview? Please read it over and answer; and if so, please state fully those answers.

172 (Objection made to her reading the paper; also, that question is incompetent, irrelevant, immaterial, and the answer inadmissible.)

A. Before looking at the paper, it came to my mind that Emma Dodge told me Mr. Hatch's daughter brought two straps, one for herself and one for Carrie, and they were both new.

Q. 16. Did Emma Dodge say to you, at that second interview, or at any other time, that the strap was a new one sent to Carrie Elms by her uncle, and that his daughter came here with but one for herself and one for Carrie, and that she knew it was a perfectly new strap?

(Objected to as leading, also incompetent, irrelevant, and inadmissible, for that it is to contradict the testimony of witness of plaintiff hereinbefore produced—that is to say, the testimony of Miss Emma F. Dodge.)

A. She did.

Cross-examined:

Q. 17. Do you know who mutilated the paper herein offered in evidence, and marked Exhibit Z, F. W. S., N. P., by plaintiffs? I refer to to the last leaf.

EXHIBIT Z.

NEW YORK, 67 *Wall St., Sept.* 29, 1875.

DEAR SISTER: I have y'r letter of 27th inst., and thank you and Henry for your trouble in seeking after Carrie Elmer. I have seen my friend, and he thinks it possible that your Carrie Elms may be the person he is seeking after all.

He has a case in court, where the existence of a shawl strap comes in question, and one has been produced with the name on it of "Carrie Elmer," or "Carrie Elmes," or "Carrie Elms." He thinks, however, that "Carrie Elms" cannot be made out of it. To the name is added "Wiscasset, Maine." It is important for him to know if Carrie Elms ever owned such a shawl strap, and whether the name and address on it were written by her. They are written on the under side of the cross piece, and if she was the owner, he wants to know from whom she received it, and when and where, and if she wrote her name and address on it, when and where she did it; and if she did not write it herself, who did, and when and where.

My friend is informed that if she is the person, Seth N. Hatch or his daughter gave it to her; but my friend neglected to ask these questions of him at the time.

Now if you will be kind enough to have Anna makes these inquiries, I shall be greatly obliged.

In haste, y'r aff. brother,

S. M***ONS.

(Endorsement in lead pencil.)

The person you are asking about is Carrie Elms, Anna's friend. She rec'd the shawl strap, a present from her uncle, Seth H. Hatch, in August, 1869, and it was brought here by his daughter.

Carrie wrote her name "Carrie Elms, Wiscasset, Maine," on the strap, and Miss Emma Dodge saw her do it.

Exhibit Z.

F. W. S., *N. P.*

173 A. My mother, I suppose [it was only saved by accident; we don't retain letters except on important business; this had no interest for us].

(Objection to all the answers enclosed in brackets as irresponsive and volunteered on the part of the witness.

Defendant's counsel here requests the magistrate to enter upon the record that this cross-examination is de bene esse.)

X Q. 18. When you say "My mother, I suppose," do you mean that you saw her mutilate the paper marked Exhibit Z?

A. I did not.

X Q. 19. Do you know, then, personally, who did it, or where it was done, or for what purpose?

A. I do not; taking from the envelope, I suppose.

(Objected to all from "taking" as irresponsive and volunteered.)

X Q. 20. Do you know who made the writing on Exhibit Z, and to whom it was sent; and, if so, state?

A. My uncle, S. N. Parsons, wrote the letter to my mother.

X Q. 21. Is Mr. S. N. Parsons attorney-at-law, and has he been conducting this examination on behalf of the plaintiff in the suit you are now giving a deposition before F. W. Small, of Wiscasset, Maine?

A. Yes, sir.

X Q. 22. Was the name of S. N. Parsons torn from the letter before taken by you to Miss Dodge and read to her?

A. I don't remember.

X Q. 23. What did you say to Miss Dodge when you first saw her after this letter (Exhibit Z) was received by your mother and contents made known to you?

A. I took this letter to her and read it to her, and asked her the question asked in the letter.

X Q. 24. What did you first say to Miss Dodge at this interview in regard to the subject matter in controversy?

A. I read her the letter, and asked her to answer the question asked in the letter if she could.

X Q. 25. Do you mean to say that without saying a word to Miss Dodge you first proceeded to read the letter?

A. I remarked I had this letter, and wanted to read it to her about a shawl strap of Carrie Elms.

X Q. 26. Will you now please give the conversation as it occurred between yourself and Miss Emma Dodge, commencing at the beginning, when you first called upon her in reference to this strap of Carrie Elms?

A. I can't remember, and have no distinct recollection of what was said by me. I opened the letter and read it to her, and asked her the question therein written.

X Q. 27. Did you say anything to Miss Dodge of or concerning this letter or the shawl strap mentioned therein, who the letter was from, what was the reason of the same being written as you understood it; if so, please give it?

A. I don't remember anything but that I told her I had a letter to read to her. [I opened the letter and read it to her.] I don't remember what I said to her before reading the letter.

174 (Objection made to part in brackets as irresponsive.)

X Q. 28. Then you did have some conversation with Miss Dodge previous to reading the letter, did you not, in regard to this shawl strap?

A. I can't remember anything I said to her about it before reading the letter. I don't remember whether I did or not.

X Q. 29. Can you state what was said either by you or Miss Dodge in regard to this shawl strap, or any matter connected with it, before the letter was read. If so, please give it.

(Objected to as being already answered.)

A. I cannot.

X Q. 30. Will you positively swear that there was nothing said by you or Miss Dodge about this shawl strap or about your reason for coming to her in regard to it before the letter, as you say, was read by you?

A. No, sir; for I do not remember.

X Q. 31. Who were present at this time when you first saw Miss Dodge and inquired of her in regard to the shawl strap in question, if you know?

A. I don't know certainly; I think her mother was in the room. I am quite sure.

X Q. 32. Do you say there was no other person present at the time?

A. There was no other person besides Mrs. Dodge, if she was there.

X Q. 33. Has Miss Dodge a sister, and do you know her?

A. She has, and I do know her.

X Q. 34. When did this interview take place? Give day and hour of the day, if you can.

A. It was Monday morning, between eight and nine o'clock; the Monday following after this letter was received.

X Q. 35. After you had read this letter to Miss Dodge, did you have any conversation with her in regard to this shawl strap or anything connected with it? If so, state.

A. [I asked her these questions, if she could tell me about them. I refer to the questions in this letter, Exhibit Z.]

(Objected to in brackets. Objected to the whole answer as irresponsive.)

I don't remember anything except what the letter referred to. I never knew anything about the strap before.

X Q. 36. Did you have any conversation with Miss Dodge in regard to this shawl strap after the letter was read by you?

A. Yes, we did.

Q. 37. Please give the conversation as it occurred, commencing with what was first said by you after the letter was read?

A. I read the letter, and she replied that she knew the shawl strap belonged to Carrie Elmes, because her uncle gave it to her and she saw her write her name on it. She couldn't remember the date, and said she would go in to Miss Elmes and inquire, and tell me at noon. I don't remember anything further.

Adjourned to Wednesday morning the further examination of this witness.

Renewal commenced and examination resumed Wednesday morning, November 10th.

175 X Q. 38. You have said Miss Dodge told you that she saw Miss Elmes write her name on the shawl strap. Did she not afterwards correct and change that statement?

A. She did not.

X Q. 39. Have you stated all that you can remember of the conversation that took place between you and Miss Dodge at the first interview on Monday morning? If not, please now give it.

A. I have stated all I remember that took place at the first interview.

X Q. 40. Did you see and converse with Miss Emma Dodge again on that day? If so, please give the conversation fully and at large.

A. I did see her at noon. She told me she had been to Miss Elmes. They told her the shawl strap was brought to Carrie in August, 1860, by Mr. Hatch's daughter, her cousin, and Carrie said she knew the strap was hers, for they had it. The impression which I mean is, that parties away from here had sent for the strap, and that it was not now in Carrie's possession.

X Q. 41. Have you now stated all the conversation that took place at this time? If not, please do so.

A. I remember nothing more that took place at that time.

X Q. 42. Did you have the letter designated as Exhibit Z with you at this conversation?

A. No, sir.

X Q. 43. Where was it, if you know?

A. It was at home.

X Q. 44. Did you have any other and further conversation with Miss Dodge relative to this matter? If so, when and where did it occur?

A. I did; Saturday afternoon, October 9th, in her store.

X Q. 45. Who were present at this time, if you know?

A. My neighbor, Mrs. Capt. Greenleaf, was with me at the time.

X Q. 46. Was there no one else that you saw?

A. I remember no one else in the store at this time.

X Q. 47. Did you at this time exhibit to Miss Dodge any letter or writing of any kind? If so, what?

A. I took a letter received from my uncle, Mr. S. M. Parsons, that afternoon, and asked her if she knew if the shawl strap was a new one, or if it had been used before being given to Carrie.

X Q. 48. Who wrote the words on the back of Exhibit Z, in lead-pencil, and when were they written?

A. I wrote the words Monday noon, as soon as I returned from her house, after the second interview.

X Q. 49. What was said by you to Miss Dodge when you came into her store, on Saturday, October 9th, in reference to this matter? Give the conversation as it occurred.

A. I asked her if she knew the strap was a new one, or if it had been used before being given to Carrie. She replied she knew it was a new one, and Mr. Hatch's daughter brought one for herself just like it, and she knew it was perfectly new.

X Q. 50. Have you stated the whole conversation? If not, proceed to give the remainder.

A. She then asked me if these questions were in favor of Mr. Hatch. I replied I am sure I don't know; I suppose so.

X Q. 51. Is that all of it?

176 A. I remember nothing more.

X Q. 52. Then you first mentioned the words new strap to Miss Dodge, did you not; and nothing had been said by Miss Dodge in any conversation, up to this time, in regard to the strap being new, is it not so?

A. I don't remember anything being said about its being new until I asked her the question.

X Q. 53. State the question as you put it to her when you inquired if the strap was new; give the exact language, if you can, and her reply.

A. I asked her if she knew the strap was a new one, or if it had been used before being given to Carrie; she replied that she knew it was a new one, and Mr. Hatch's daughter brought one for herself just like it, and she knew it was perfectly new.

X Q. 54. Did you ask but one question, and did she give but one reply, as stated in your last answer?

A. I don't remember asking any other question about it.

X Q. 55. What was Miss Dodge doing at the time when you came into her store?

A. She was talking to a man to whom she had by mistake paid five dollars in making change.

X Q. 56. Who was the man, and did he hear the conversation between you and Miss Dodge?

A. I don't know the man, and he did not hear the conversation, he went out before I spoke to her about it.

X Q. 57. How long a time was Miss Dodge talking with the man, and did he repay her the money which she claimed had been paid him by mistake?

A. She talked with him a few minutes; I don't know how long; he did not repay her the money.

X Q. 58. Did Miss Dodge appear to be annoyed or excited on account of the non-payment of this money to her by the man, and did she say

anything about it to you or in your presence after the man had left her store?

A. She did seem annoyed; she told us she was five dollars out by the man's not paying back the money.

X Q. 59. Did you thereupon put your question as stated in answer to interrogatory 53?

A. I did, in the course of a minute or two.

X Q. 60. Did Miss Dodge tell you or did you inquire of her how she knew the strap was a new one?

A. I don't remember asking her how she knew it was a new one, nor her telling me anything about it how she knew it was a new one.

X Q. 61. Why did you ask her if it was a new strap and never been used before?

A. It was the question in my uncle's letter.

Q. 62. Did not Miss Dodge tell you that Miss Hatch brought the strap with her from Boston and gave it to Miss Elmes, and may you not be mistaken in regard to her saying that Miss Hatch brought another strap for herself?

A. She did say so; I don't think I am mistaken.

X Q. 63. Was anything said by you or Miss Dodge that it was necessary to identify this strap as it had got into the hands of some person to whom it did not belong, and that your uncle, S. M. Parsons, was acting as the attorney for Mr. Hatch, the uncle of Miss Elmes,
177 and desired you to obtain the answer to the question you put to her?

A. 63. I don't remember of our saying anything of the kind or anything about it; I knew nothing about who had the strap or what motive my uncle had in making the inquiry, except that they were for a friend of his.

X Q. 64. Was nothing said about Mr. Hatch, the uncle of Miss Elmes, or his having an interest in this matter?

A. I can't remember anything we said about it.

X Q. 65. Do you remember anything that was said by you or Miss Dodge, except what you say was written by your mother to Mr. S. M. Parsons, attorney-at-law in New York City, and now conducting this examination on behalf of the complainant?

A. I do not remember anything else.

X Q. 66. Have you talked over this matter with Mr. S. M. Parsons and Mr. Fitzgerald, the partner in business of George Crouch, the complainant, and also have you read the letter or letters written by Mr. S. M. Parsons and your mother concerning this matter, and this recently, and before and while giving your deposition?

A. I have not, except general remarks at the supper-table last night, which had no bearing upon my testimony whatever; while under examination yesterday afternoon, I read my uncle's letter and the second letter of my mother; this morning I looked at the date of my mother's second letter and then at the calendar to see if Saturday was the 9th or 10th October, and found it to be the 9th.

X Q. 67. Were you informed by any person in regard to what Miss Dodge had deposed on the morning of yesterday, and previous to your examination; if so, by whom, and what was said?

A. Mr. Parsons told me at noon she didn't remember what she had told me.

X Q. 68. Is that all Mr. Parsons said in regard to the testimony of Miss Dodge—all that you heard from any source before testifying?

A. I don't remember anything more being said about it.

The witness, after hearing the testimony read, desires to correct the answer to interrogatory No. 3, by saying, I would like to correct my words "I am quite sure," at the close of my answer, thinking I may have been mistaken in regard to her mother, Mrs. Dodge, being present at the interview.

Redirect:

R. D. Q. 69. Did you know for whom your uncle was acting, or in whose interest when you made the inquiries referred to or any of them?

A. No, sir.

R. D. Q. 70. Did you personally make, at the time, a memorandum of your conversation at the first and second interviews with Miss Dodge, and did your mother put down in writing in your presence and in——

(Questions withdrawn of the redirect testimony.)

ANNIE J. BAKER.

Sworn to before me this tenth day of November, in the year of our Lord one thousand eight hundred and seventy-five.

F. W. SEWALL,
Notary Public.

178 Depositions of witnesses on the sur-surrebuttal taken this 6th day of March, 1875, on the part of the complainants, by consent. Present, E. B. Barnum, for complainant, A. V. Briesen, for defendant.

ANDREW FITZGERALD, a witness called on behalf of the complainant, being duly sworn, deposes as follows:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Andrew Fitzgerald; age between 56 and 57; residence 144 Remsen street, Brooklyn; occupation, trunk manufacturer.

Q. 2. Do you know Theodore A. Freeman, a witness called on the part of the defendant in sur-rebuttal at Philadelphia.

A. I do.

Q. 3. How long have you known him?

(Objected to as immaterial and not sur-rebuttal.)

A. Since October, 1875, the latter part.

Q. 4. Look at letter and envelope now shown you and state what they are and when and how you received the same?

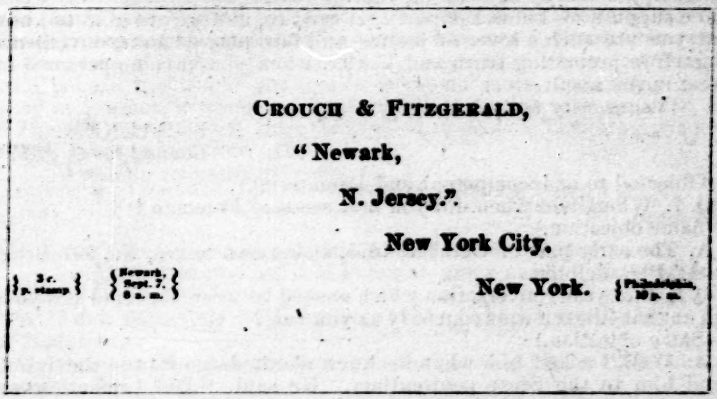
(Objected to as incompetent and immaterial and not rebuttal.)

A. This is a letter and envelope that I received through the post-office in the regular way, brought by a carrier to our store, corner Broadway and Maiden Lane. I received it either on September 6th or 7th, 1875.

(Same objection as to question.)

Letter and envelope offered in evidence and marked Exhibit Freeman No. 1, March 6, 1876.

Complainants' Exhibit Freeman No. 1, March 6, '76.



PHILADELPHIA, *August* 28, '75.

Messrs. CROUCH & FITZGERALD:

GENTLEMEN: One of the witnesses testifying against you in a patent case is not reliable; could bring you plenty of proof if you desire it. He has done enough to be put in the State penitentiary. For further information call on or address,

THEODORE A. FREEMAN,
907 Beach Street, Phila.

179 Marked Complainant's Exhibit Freeman No. 1, March 6, '76.
F. W. R., *N. P.*

(Objected to as utterly incompetent and immaterial.)

Q. 5. Look at paper now shown you and state what it is?

(Objected to as incompetent evidence and as immaterial and not surrebuttal.)

A. It is a copy of a letter in answer to the Freeman Exhibit No. 1. This is dated September 5, and in answer to said letter; I must therefore have received the letter September 5, 1875. It was answered the same day I received it.

(Answer objected to as hearsay.)

Q. 6. Were you present when that letter was written, and did you read and mail it?

(Same objection.)

A. I was and I did.

Letter offered in evidence and Marked Ex. Freeman No. 2, March 6, 1875.

Exhibit Freeman No. 2, March 6th, 1876.—F. W. R., N. P.

SEPTEMBER 5TH, 1875.

THEODORE A. FREEMAN, Esq.:

DEAR SIR: Your letter of the 28th August, 1875, to Messrs. Crouch & Fitzgerald, addressed to them at Newark, and forwarded by the P. O. authorities to them at N. Y., where they belong, has been received and referred to me.

We do desire the proof you speak of, and one of the firm will be in Philadelphia shortly and call on you.

We suppose we know the party referred to, and we are glad to know that you are such a lover of justice and fair play as to inconvenience yourself in promoting truth and justice, when you have no personal interest in the result.

Yours, very truly,

E. B. BARNUM,
Counsel for C. & F.

(Objected to as incompetent and immaterial.)

Q. 7. Where and when did you first see said Freeman?

(Same objection.)

A. The early part of October, 1875, at his own house, No. 907 Beach street, Philadelphia.

Q. 8. State the conversation which ensued between Freeman and yourself at that interview as concisely as you can?

(Same objection.)

A. Well, I asked him what he knew about John Rowen that would send him to the State penitentiary. He said, "Did I mention any names in my letter?" I said not, but I was a pretty good
180 guesser, and I thought while Rowen was testifying it was false, and so I thought it was him. He said, "You have guessed right, he is the man; he is a great liar and swindler, and he was well paid for his testimony." I then asked him if he would be willing to testify to these facts. He said he didn't want to appear as a witness against him, but he would give me the names of plenty of people in Philadelphia who knew him to be a liar and a swindler. He said it would hurt his business if he was to testify, as he dealt with most of the trunk-makers and bag-makers selling school-satchels and common shawl straps. I told him I didn't want to injure him or his business and shouldn't have called to see him if he hadn't written to us. I then asked him who were the other parties that he had reference to who knew him to be a liar and a cheat. He then gave me the name of J. P. Reifsneider & Son, a large furniture house; Philadelphia Soda Fountain Company; John Rice' Kenny & Son, and several others that I don't remember. I left then to see some of those parties.

Q. 9. Was any reference to any particular parties whom he was afraid to offend made by him?

(Same objection and as leading.)

A. I think he spoke in particular of C. F. Rumpp, as he was interested in the suit.

Q. 10. Look at paper now shown you, state what it is and when you received it.

(Same objection.)

A. It is a letter from Theodore A. Freeman, which we received in the usual way through the post-office. I can't give you the date. It came duly to hand.

Offered in evidence and marked Exhibit Freeman No. 3, March 6th, 1874.

Freeman Exhibit No. 3, March 6, 1876.

PHILADELPHIA, *October* 27, 1875.

Messrs. CROUCH & FITZGERALD:

GENTLEMEN: You will pardon me for not writing sooner on account of waiting to see a gentleman by the name of Wilson Cartmell, No. 329

East Huntington st., Phila.; he may be some service to you in this case, and he told me to inform you to correspond with him. I am sorry to inform you that I cannot grant your request for to come and testify, because dealing very near altogether with parties who are indirectly interested in your case, if it was known to these parties that I was testifying in your behalf, they would not patronize me no more, and, being rather busy at present, it would not be very handy for me to come over, but if I can do you a favor I shall be pleased to do so. Thanking you very kindly for your generous offer,

I remain respectfully yours.

THEODORE A. FREEMAN,
907 *Beach St.*

181 (Objected to as incompetent, and not surrebuttal.)

Q. 11. Did you see said Freeman again; and, if so, when?

(Same objection.)

A. I did, some time in November, 1875; I should say the latter part of November.

Q. 12. State what conversation you had at that interview as near as you can.

(Same objection.)

A. I told him I had seen several of the parties that he named, and, although they all corroborated his statement in regard to John Rowan, still they were not willing to come forward as witnesses, and I wanted him to make good his proposal or promise to do so himself. He again declined, and when I urged him very strongly, he said he wouldn't like to come forward and say he wouldn't believe him under oath, but he referred me to J. J. Morrison, trunk maker, I think in Callowhill street, who he supposed would be a witness. I then left and had no further conversation with him.

Q. 13. Look at letter and envelope now shown you and state what it is and when you received it.

(Same objection.)

A. It is a letter and envelope signed by T. A. Freeman, also H. Hiller—came duly to hand in the usual way through the post-office.

Letter and envelope offered in evidence, and marked Exhibit Freeman No. 4, March 6, 1866.

Complainants' Exhibit Freeman No. 4, March 6, 1876.

[Philadelphia, Pa. Nov. 30, 11 a. m.] [In postage stamps.]

CROUCH & FITZGERALD,

No. 1 Maiden Lane,

New York,

N. York.

PHILADELPHIA, *November* 20, 1875.

GENTS: I have reconsidered over matters, and have also received trustworthy information which justifies me in changing my opinion in regards to believing him on his oath; have also another party that would be willing to come along and give valuable information providing you would pay for it, and it would enable both of us then to make a respectable appearance.

Please let us know what you can do, and oblige, truly yours,

T. A. FREEMAN; also
H. HELLER,

(Objected to as incompetent and not surrebuttal.)

182 Q. 14. Look at paper now shown you, and state what it is and when you received it?

(Same objection.)

A. This is a duplicate of a telegraphic dispatch I received November 23, 1875.

Q. 15. What became of the original, and how did you obtain this duplicate?

(Same objection.)

A. After keeping the original for about a week or so I destroyed it, and I applied to the Western Union Telegraph Company this morning for this duplicate; about one o'clock to-day.

Offered in evidence and marked Exhibit Freeman No. 5, March 6, 1876.

Complainants' Exhibit Freeman No. 5, March 6, 1876.

H. N. D. Nine. Rptd. Philadelphia, Nov. twenty-third. Crouch & Fitzgerald, one Maiden Lane, New York. Send fifty dollars to each one of us, and we come immediately.

FREEMAN & HELLER.

XII PA. I. D. G. R. P. T. D.

(Objected to as incompetent and not surrebuttal.)

Q. 16. Look at letter now shown you, and state what it is and when you received it?

(Same objection.)

A. It is a letter signed Freeman & Heller that I received in the usual way through the post-office, and came duly to hand.

Offered in evidence, and marked Exhibit Freeman No. 6, March 6, 1876.

Complainants' Exhibit Freeman No. 6, March 6, 1876.

PHILADELPHIA, *November* 25, 1875.

GENTS: Yours of the 23rd is at hand informing us that you can't grant our request; in regards to the finances we to trust upon your honor to make everything satisfactory. We do not at least dou't your good intention, but you must consider that we are poor men and to undertake a journey at this time a year, it requires things where a man is not always prepared for in regards to Mr. Heller's evidence; it will be very valuable in every respect, he refers to Mr. Kenny for reference, hoping that we will hear from you, we remain, truly yours,

FREEMAN & HELLER.

(Same objection.)

Q. 17. Did you ever receive any other letters or telegrams from the said Theodore A. Freeman except those you have just testified to?

(Objected to as incompetent, immaterial, and as it does not appear that witness received any letters or telegrams from Theodore A. Freeman.)

183 A. No, sir.

Q. 18. Or any that purported to come from him?

(Same objection.)

A. No, sir.

Cross-examined by Mr. BRIESEN:

X Q. 19. Are you interested in this suit; and, if so, to what extent?

A. I am partner with George Crouch and am interested to the same extent that he is.

X Q. 20. What offer did you make to Freeman when first you visited him?

A. To pay him for his expenses in coming on here to testify, and for his time.

X Q. 21. Was any sum named?

A. No, sir.

X Q. 22. What did you propose to pay him for his time?

A. I didn't propose to pay him anything.

X Q. 23. Did you not offer to pay him for his time?

A. I told him, as I told all other witnesses, that I would pay them their expenses in coming on here, and for the time occupied while giving the testimony.

X Q. 24. What reply, if any, did you send to Exhibit Freeman No. 6?

A. I did not send any reply, sir, to the best of my recollection.

X Q. 25. Were you present at the examination of the witness Schmidt on behalf of the defendant in this case?

(Objected as immaterial and incompetent and not sur-surrebuttal.)

A. I was.

X Q. 26. State whether or not you or your firm were instrumental, by direct or indirect procedures, in preventing said Schmidt from appearing and completing his testimony?

(Objected as immaterial and incompetent, not surrebuttal, and on the further ground that no deposition of any such witness has been taken in this cause.)

And counsel, at this stage of the cause, declines to permit the examination of this witness to go beyond a legitimate cross-examination, and instructs him not to answer this question for the reasons stated.

Defendant's counsel, in reply, states that he is credibly informed that the witness Schmidt, who is in the employ of the firm friendly inclined to the complainant, was, by said complainant, his partner or his counsel, instructed, after having given his first deposition, that he need not obey the process of subpœna served on him by defendant, on the ground that said Schmidt was a resident of New Jersey, and the subpœna issued from the United States court for the southern district of New York; and that in obedience to such instructions the said Schmidt declined to appear and complete his testimony; and that, in view of the above, counsel believes himself justified in cross-examining said witness on the subject, in order to show the character of this witness and general policy of the prosecution herein.

184 To which complainant's counsel responds on behalf of himself Messrs. Crouch and Fitzgerald, here present, that neither they

or any one of them have exerted any influence over said Schmidt or any one else in this case, and that this baseless insinuation was made by defendant's counsel on his direct case and then promptly denied.

That if he had desired the testimony of said Schmidt it was a matter of no inconvenience to compel his appearance at Newark or elsewhere. That said Schmidt is, as complainant is informed, so employed by a responsible and reputable house at Newark, New Jersey, to wit, Edgar Farmer & Co., and that the fact his attendance was was not compelled was due entirely to the fact that he could not testify as the defendant desired.

Defendant's counsel denies the right of counsel to testify for his principals, and denies also that the same matter, above referred to, was in any manner recorded on the defendant's direct case.

Complainant's counsel states, that at request of defendant's counsel he consented to the suppression of Schmidt's unfinished deposition, and that had the insinuation been made at that precise time the record would have shown it.

ANDREW FITZGERALD.

Sworn to before me this 6th day of March, 1876.

FRED. W. REBHANN,
Notary Public, New York Co.

Complainant rests.

FRED. W. REBHANN,
Notary Public, New York Co.

185 United States circuit court, district of New Jersey. In equity.

GEO. CROUCH
vs.
WM. ROEMER.

DEFENDANT'S PROOFS.

E. B. Barnum, counsel for complainant.
A. V. Briesen, counsel for defendant.

186 United States circuit court, district of New Jersey. In equity.

GEORGE CROUCH
vs.
WILLIAM ROEMER.

The answer of William Roemer, defendant, to the bill of complaint of George Crouch, complainant.

This defendant now, and at all times hereafter, saving and reserving unto himself all benefit and advantage of exception, which can or may be had or taken to the many errors, uncertainties, and other imperfections in the said complainant's said bill of complaint contained, for answer thereto, or unto so much and such parts thereof as this defendant is advised is or are material or necessary for him to make answer unto, this defendant answering, saith:

That he has been informed and admits it to be true, that, upon application by the complainant, letters patent of the United States were granted and issued to the said George Crouch on the 29th day of September, 1868, for an alleged improvement in shawl straps, and reissued on

the 7th day of March, 1871. And this defendant says that he does not know and is not informed, save by said bill of complaint, whether or not said George Crouch did properly make application for said patent and reissued patent, and did comply with all the requirements of law and did have said patent and reissued patent issued to him in due form of law, and leaves the complainant to make such proof thereof as he shall be advised is material.

And this defendant, further answering, says that he does not know, and is not informed, save by said bill of complaint, whether or not the said George Crouch now owns and holds said reissued letters patent, and leaves the complainant to make full and ample proof of his title.

And this defendant, further answering on information and belief, says that the said complainant is not the original inventor or discoverer of the alleged improvement in shawl straps described in said reissued letters patent, nor of any part thereof, and denies that said reissued letters patent, dated March 7th, 1871, and referred to in complainant's
187 said bill of complaint, contains the description of a new and useful improvement in shawl straps.

And this defendant further answering says that he is informed and believes it to be true, that the same invention and discovery, and substantially the same principle and combination, patented in and by the letters patent mentioned in the bill of complaint aforesaid, was, prior to the supposed invention and discovery thereof by George Crouch, the patentee aforesaid, patented and described in the following letters patent of the United States:

1. Letters patent granted Thomas Goodrum, October 16th, 1866, numbered 58940, for an improved school-boy's book-binder.

2. Letters patent granted to William C. Watson, September 24th, 1867, numbered 62285, for an improved clamp for school books.

3. Letters patent granted to William C. Watson, March 17th, 1868, numbered 75069, for an improved portable book clamp.

And this defendant further answering, on information and belief, says that the said complainant has surreptitiously and unjustly obtained the patent for that, which was in fact invented by another, to wit, by T. W. Porter of Boston, Massachusetts, who was using reasonable diligence in adapting or perfecting the same, and who, in conjunction with one H. K. Porter, also of Boston, Massachusetts, made application for a patent for a rigid bar shawl-strap, on the 4th day of September, 1868, prior to the date of complainant's original letters patent, and finally received a patent with a claim, covering the complainant's alleged invention, on the 22nd December, 1868, numbered 85129.

And this defendant further answering, says that in view of the foregoing application of T. W. and H. K. Porter, on the 4th day of September, 1868, for a patent for a shawl-strap, embodying the same invention as that described in the then pending application of the complainant for his patent, the Commissioner of Patents had no lawful right to grant and issue to said complainant said letters patent, without first declaring an interference between the two applications and determining the question of priority of invention, as prescribed by law, and that therefore the complainant's said letters patent have been illegally granted, and have ever been void and without effect whatsoever.

And this defendant further answering, says that in view of the issue of the said letters patent to T. W. and H. K. Porter on the 22nd day of December, 1868, the Commissioner of Patents had no lawful right to grant and issue to said complainant said re-issued letters patent, without first declaring an interference between the complainant's application for a re-

issue, and the said letters patent of T. W. and H. K. Porter and determining the question of priority of invention, as prescribed by law and by the rules of the Patent Office, and that therefore the complainant's said re-issued letters patent were fraudulently and unlawfully granted and issued, and are void and without effect whatsoever.

And this defendant further answering, says that he is informed, and believes it to be true, that the said George Crouch, patentee as aforesaid, was not the original and first inventor and discoverer of the said alleged invention and discovery, or of any material and substantial part of the thing, or of the principle and combination patented in and by the reissued letters patent, mentioned in the said bill of com-
188 plaint, but that the same thing and the same principle and combination had been in public use or on sale in this country for more than two years before the complainant's application for his letters patent, and that the following named persons had the prior knowledge of the thing patented, to wit:

Charles F. Rumpp, Charles Ballier, Patrick J. Buckley, Adolphus Y. Andrews, L. Philip Metzger, John Roan (Rowen*), and David De Costa, all residing in Philadelphia, Pennsylvania, and having knowledge of prior use of the thing patented, in Philadelphia and other places.

William C. Watson, Benjamin Harrison, and Joseph Deane, residing in Paterson, New Jersey, and having knowledge of the prior use of the thing patented in Paterson and other places.

T. W. Porter and H. K. Porter, hereinabove named, Seth H. Hatch, residing in East Somerville, Massachusetts, and George A. Easter, residing at Charlestown, Massachusetts, and having knowledge of the prior use of the thing patented at Boston, Massachusetts, and other places.

G. B. Broad of Portland, Maine, T. S. Brown, James Hamilton, sr., and James Hamilton, jr., Ernest C. Webb and Charles H. Webb, and Franz Meinberg,† all of New York, New York, Ferdinand Schmidt of Newark, New Jersey, and John Rissler of Brooklyn, New York, all having prior knowledge of public use in New York, New Jersey, Maryland, and Maine, and many others whose names are not known to this defendant, but which he prays permission to disclose, as soon as ascertained.

And this defendant further answering, says that nearly all the shawl-straps which he manufactures and sells are by him made and sold in accordance with his own invention, for which he has obtained letters patent of the United States, bearing date the 18th day of August, 1874, and numbered 154283; and that he has a right to make, vend and sell his said shawl-straps, which are not made in imitation of complainant's patent.

And this defendant further answering, says that it is not true, as charged in the bill of complaint, that he applied to complainant for permission to make and sell shawl-straps embodying the complainant's alleged invention, nor is it true that this defendant has rendered an incorrect and untrue statement of shawl-straps made by him, unto the complainant, as alleged in the bill of complaint.

And this defendant further answering, says that he is not informed, save by said bill of complaint and general rumor, and cannot admit, that the suit which the said complainant brought against H. Speer, R. Speer, and E. Mattner was tried or argued or other proceedings had therein,

*See explanation of defendant's counsel, immediately preceding the deposition of Rowen, of August 17th, 1875.

†See amendment of answer consented to August 30th, 1875, immediately preceding the deposition of witness Metzger, of that date.

as stated in said bill of complaint; and he further says, that if the said allegations of the bill are true, that the same are immaterial and irrelevant as to this defendant for the reason that he was not party to said suit, nor did he have any interest therein, and that he is not to be prejudiced thereby.

And this defendant further answering, denies that he has ever at all in any way infringed upon the complainant's reissued letters patent, or that he is now infringing upon the same, or intends so to do, either by making, using, or vending to others to be used or otherwise, the said alleged invention, as alleged in the bill of complaint or otherwise.

189 And this defendant, further answering, denies that he has ever contrived to injure said complainant, or to defraud him of any profits, benefits, and advantages whatever, as charged in the bill of complaint.

And this defendant denies all and all manner of unlawful action and intention, wherewith he is by the said bill charged, without this, that there is any other matter, cause, or thing in the said complainant's said bill of complaint contained material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed and avoided or denied, is not true to the knowledge or belief of this defendant, all which matters and things this defendant is ready and willing to aver, maintain, and prove, as this honorable court shall direct, and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

WM. ROEMER,
Defendant.

A. V. BRIESEN,
Solicitor and of Counsel for Defendant.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

William Roemer being duly sworn, deposes and says, that he is the defendant named in the foregoing answer subscribed by him; that he has read the same and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he verily believes it to be true.

WM. ROEMER.

Subscribed and sworn to before me this 8th April, 1875.
[L. S.] R. R. STILWELL,
U. S. Com'r for the Southern District of New York.

190 *Defendant's Exhibit No. 4, August 9th, 1875.—E. C. W., notary.*

The U. S. Patent Office to all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the files of this office of the file wrapper, contents, and drawing in the matter of the letters patent granted Thomas Goodrum, dated October 16th, 1866, No. 59940, for "School Boy's Book Binder."

In testimony whereof, I, J. M. Thacher, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this sixteenth day of October, in the year of our Lord one thousand

eight hundred and seventy-four, and of the Independence of the United States the ninety-ninth.

[L. S.] J. M. THACHER,
Acting Commissioner.

PROVIDENCE, R. I., *May 10th*, 1866.

Hon. T. C. THEAKER,
Commissioner of Patents:

SIR: I send herewith the petition, specification, and two drawings belonging to the application of Thomas Goodrum, assignor to A. J. Manchester of Providence, for letters patent for School Boy's Book Package Binder. Enclosed is an assignment, with $2.00 for record, also money-order for fifteen dollars, to be applied to the first fee therein. The model has been forwarded by express.

Very respectfully, your obedient servant,
BENJ. F. THURSTON.

To the Commissioner of Patents:

The petition of Thomas Goodrum, of Providence, in the county of Providence and State of Rhode Island, respectfully represents that your petitioner has invented a new and improved school boy's book-package binder (assigned to Albert F. Manchester of Providence, R. I.), which he verily believes has not been known or used before his invention and use thereof. He therefore prays that letters patent of the United States may be granted therefor, vesting in him and his legal representatives the exclusive right to the same, upon the terms and conditions expressed in the act of Congress in such case made and provided; he having paid fifteen dollars into the Treasury, and otherwise complied with the requirements of said act.

THOMAS GOODRUM.

And I, the said Thomas Goodrum, do hereby nominate, constitute, and appoint Benjamin F. Thurston, of the city and county of Providence, in the State of Rhode Island, my lawful attorney for me and in my name to present the within application for letters patent to the Commissioner of Patents; to prosecute the same to a final decision; to make all amendments or alterations in the same that may become necessary, or which he may deem advisable and proper; for me to receive from the Patent Office any letters patent which may be issued on the said application, and generally to do all and every such matter and thing, as may be necessary or proper, to secure by letters patent the invention herein described.

THOMAS GOODRUM.

[50 C. R. S., T. G. May 10, '66.]

191 STATE OF RHODE ISLAND,
County of Providence, ss:

On this tenth day of May, 1866, before the subscriber, a notary public in and for the said county, personally appeared the within named Thomas Goodrum, and made solemn oath that he verily believes himself to be the original and first inventor of the within described school boy's book package binder, and that he does not know or believe that the same was ever used or known before his discovery and use thereof; and that he is a citizen of the United States.

BENJ. F. THURSTON,
Notary Public.

[5 C. R. S., B. F. T. May 10, '66.]

192 To all whom it may concern:

Be it known that I, Thomas Goodrum, of the city and county of Providence, in the State of Rhode Island, have invented a new and improved School Boy's Book Package Binder, and I do hereby declare, that the following specification, taken in connection with the drawings, making a part of the same, is a full, clear and exact description thereof.

Figure 1 is a top view.

Figure 2 is a side view as the article will appear when in use.

School boys have long been accustomed to bind together in a package the books which are required to be carried home for use at their evening tasks by means of a leather strap, provided with a buckle at one end, through which the other end of the strap is passed. As it is necessary to draw the strap tightly around the books to prevent them from slipping out, it follows that the covers of the books at the top and the bottom of the package are soon broken at the edges and defaced.

To provide a convenient article for this purpose, which will hold the package together with perfect safety and without injury to the books, is the object of my invention.

In the accompanying drawings, A A are respectively strips of hard wood (for which any other suitable material may be substituted), of a convenient length to accommodate the ordinary sizes of books. To the upper strip and midway between the ends is attached a convenient handle, B, to the shank of which is secured a windlass barrel, C. The shank *a* of the handle passes through the strip and may be riveted over a collet upon the under side or otherwise arranged, so that it can be turned freely. There is also at the upper end of the windlass barrel and furnishing a flanch, to retain the cord, presently to be described, a plate, *b*, which is provided with ratchet teeth, *c*, and in connection with such teeth is a holding-dog or stop, *d*, arranged in any usual and convenient way.

The two strips or binders A A are connected by means of a cord, E, which is passed through holes near the ends of the strips, which it will be better to shape and round at the end like hawse-holes, and is finally secured at both ends to the barrel of the windlass.

It is quite obvious that, with the proper length of cord, the two binding strips A A can be separated from each other, to permit the introduction of the number of volumes to be carried, which when properly adjusted, by turning the handle B, the cord E will be wound upon the windlass barrel and cause the binders A A to compress the books sufficiently to keep them in place where they will be held by means of the engagement of holding-dog *d* with one of the teeth of the ratchet plate *b*.

It is not necessary that the cord E should be a single cord, as shown in fig. 2. and be led lengthwise along the bottom surface of the bottom binder; but it may be cut in two and be secured at the ends to the extremities of the lower binder. It is however much better that the arrangement should be as shown; for by this means any stretching of the cord is distributed equally throughout its length and the binders are made to press upon the outside books with equal force at all points of their surfaces.

What I claim as my invention and desire to secure by letters patent is a portable book package binder constructed and operating as described, the article being substantially as herein specified.

THOMAS GOODEUM.

Witnesses:
JOHN D. THURSTON.
GEORGE B. BARROWS.

194 Hon. T. C. THEAKER,
Commissioner of Patents:

Enclosed please find $20 for final fee on application of A. J. Manchester for patent for "School-boy's book-binder," ordered to issue Sept. 11, 1866.

Yours, very respectfully,

BENJ. F. THURSTON

No. 58940. Thomas Goodrum, assor. to Albert J. Manchester, of same place—of Providence, county of Providence, State of Rhode Island.

School-boy's book binder.
Received May 12, 1866.
Petition " "
Affidavit " "
Specification " "
2 drawings " "
Model " "
Cert. dep.
Cash, $15, May 12, 1866.
Add. fee, cert.
" cash, $20, October 1, 1866.
Examined Aug. 30, 1866. T. R. Peale.
2 issue A. M. Stout, Sept. 10, 1866.
3 Patented October 16, 1866.
Recorded vol. 207, page 760.
Circular September 11, 1866.

B. F. THURSTON,
Providence, R. I.

195 *Defendant's Exhibit No. 5.—August 9th, 1875.—E. C. W., Notary.*

No. 69285.

The United States of America to all to whom these letters patent shall come:

Whereas William C. Watson, of Paterson, New Jersey, has alleged that he has invented a new and useful clamp for school-books, which he states has not been known or used before such invention, has made oath that he is a citizen of the United States, that he does verily believe that he is the original and first inventor or discoverer of the said invention, and that the same hath not, to the best of his knowledge and belief, been previously known or used, has paid into the Treasury of the United States the sum of thirty-five dollars, and presented a petition to the Commissioner of Patents, praying that a patent may be issued therefor:

These are therefore to grant, according to law, to the said William C. Watson, his heirs, administrators, or assigns, for the term of seventeen years from the twenty-fourth day of September, one thousand eight hundred and sixty-seven, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said invention, a description whereof is given in the schedule hereunto annexed and made a part of these presents.

In testimony whereof I have caused these letters to be made patent and the seal of the Patent Office to be hereunto affixed. Given under

my hand, at the city of Washington, this twenty-fourth day of September, in the year of our Lord one thousand eight hundred and sixty-seven, and of the Independence of the United States of America the ninety-second.

[L. S.]

W. T. OTTO,
Acting Secretary of the Interior.

Countersigned and sealed with the seal of the Patent Office.

T. C. THEAKER,
Commissioner of Patents.

196 UNITED STATES PATENT OFFICE.

William C. Watson, of Paterson, New Jersey. Letters patent No. 69285, dated September 24, 1867. Clamp for school-books.

The schedule referred to in these letters patent and making part of the same.

To all whom it may concern:

Be it known that I, William C. Watson, of Paterson, in the county of Passaic and State of New Jersey, have invented certain new and useful improvements in book-clamps, and I do hereby declare that the following is a full, clear, and exact description of the same, reference being had to the accompanying drawings, making a portion of this specification, in which—

Figure 1 is a side view of a book-clamp constructed according to my invention.

Figure 2 is an end view of the same.

Figure 3 is a transverse section of the same, taken in the line *x x* of fig. 1.

Similar letters of reference indicate corresponding parts in all the figures.

The object of this invention, designed more especially for the use of children, is to provide a cheap, simple, and compact device for carrying any desired number of school or other books, and it consists in a tightening-nut and screw, in combination with a roller-handle, a frame, and binding-cord, whereby the desired object is effectually secured.

To enable others to understand the nature and construction of my invention, I will proceed to describe it, with reference to the drawings.

A represents a frame, composed of a flat strip of sheet metal, the two ends of which are turned up at right angles to the main or central portion thereof, as shown at *a*. Situated between the upper parts of these turned-up portions *a* is a roller, B, which serves the purpose of a handle for the device, and the pivots *a' b'* of which may be formed by the ends of a cylindrical rod, *a**, passing centrally through the same, as shown in dotted outline in fig. 1, and working in suitable holes or bearings formed in the parts *a*, just mentioned. One of the aforesaid pivots, *b'*, is formed with a thread, and constitutes the tightening-screw of the clamp, and is furnished at the outer side of the portion *a*, through which it passes, with a tightening-nut, *c*. The roller-handle B is constructed with a central longitudinal slot, *c'*, at or near each end of which is a lateral or radial slot, *d'*. The binding-cord C is passed through the slots *c c'*, as indicated in fig. 3, and also in dotted outline in fig. 1. The ends of the said binding-cord, after being passed through suitable holes in the central or main portion of the frame A, are attached to the ends of

a flat plate or strip, *d*, which may be made of stiff sheet-metal or other suitable material.

By turning the roller-handle B upon its longitudinal axis, in one direction or the other, as the case may require, the binding cord may be wound thereon or be unwound therefrom, to bring the strip *d* at any desired distance from the central portion of the frame A. The books are placed between the strips *d* and the central part, just mentioned, of the frame A, as shown in red outline in fig. 1, and the roller-handle is then turned, as hereinbefore set forth, to draw upward the strip *d*, and thus tightly clamp the books between the said strip and the frame A,
197 whereupon the nut *c* is turned so as to be brought against the adjoining side of the portion *a* with sufficient tightness to prevent the said roller-handle from turning, and the books, being thus secured in the clamp, may be carried by grasping the roller-handle thereof in the hand, the books being suspended, as it were, from the said handle.

What I claim as my invention, and desire to secure by letters patent, is—

The combination of the tightening-nut *c* and screw *b'* with the roller-handle B, frame A, and binding cord C, substantially as and for the purpose specified.

W. C. WATSON.

Witnesses:
J. W. COOMIS.
G. W. REED.

198 *Defendant's Exhibit No. 6, August 9th, 1875.—E. C. W., notary.*

No. 75660.

The United States of America to all to whom these letters patent shall come:

Whereas W. C. Watson, of Paterson, New Jersey, has alleged that he has invented a new and useful improvement in portable book clamps and has made oath that he is a citizen of the United States; that he verily believes he is the original and first inventor or discoverer of the said improvement, and that the same hath not, to his knowledge and belief, been previously known or used; has paid into the Treasury of the United States the sum of thirty-five dollars, and presented a petition to the Commissioner of Patents praying that a patent may be issued therefor.

These are are therefore to grant to the said W. C. Watson, his executors, administrators, or assigns, for the term of seventeen years from the seventeenth day of March, one thousand eight hundred and sixty-eight, the full and exclusive right and liberty of making, using, and vending to others to be used, the said improvement, a description whereof is given in the annexed schedule, and made a part of these presents.

In testimony whereof I have caused these letters to be made patent and the seal of the Patent Office to be hereunto affixed.

Given under my hand, at the city of Washington, this seventeenth day of March, in the year of our Lord one thousand eight hundred and sixty-eight, and of the Independence of the United State of America the ninety-second.

[L. S.]

W. T. OTTO,
Acting Secretary of the Interior.

Countersigned and sealed with the seal of the Patent Office.

A. M. STOUT,
Acting Commissioner of Patents.

200 UNITED STATES PATENT OFFICE.

William C. Watson, of Paterson, New Jersey. Letters patent No. 75869, dated March 17, 1868. Improvement in portable book-clamps.

The schedule referred to in these letters patent and making part of the same.

To all whom it may concern:

Be it known that I, William C. Watson, of Paterson, in the county of Passaic, and State of New Jersey, have invented a new and useful improvement in book-clamps; and I do hereby declare, that the following is a full, clear, and exact description of the same, reference being had to the accompanying drawings, making a portion of the specification, in which—

Figure 1 is a side view of a book clamp, constructed according to my invention.

Figure 2 is a transverse section of one portion of the same.

Similar letters of reference indicate corresponding parts in both figures.

This invention relates to that class of book-clamps in which the books are clasped between two plates or strips, tightened by a cord operated by a windlass, and its object is to provide a cheap, simple, and convenient device, whereby children may carry their school and other books in compact packages, and which will not be liable to those objections which in practice are found to exist in those clamps, in which the axis of the windlass is at right angles to the clasping-plates.

The invention consists in a handle, which constitutes a drum or windlass, supported in bearings, provided in one of the clamping-strips, arranged parallel with such strip, and furnished with a pawl and ratchet-wheel, so combined with the other clasping-strip, and a suitable tightening-cord, as to effectually secure the object mentioned.

To enable others to understand the nature and construction of my invention, I will proceed to describe it with reference to the drawings.

A represents that one of the clamping-strips which sustains the handle, drum, or roller B, the ends of the said strip being turned up at right angles to its main length, as shown at *a*, such ends *a* being provided with bearings, for the reception of the pivots *b* of the windlass just mentioned. C indicates another clamping-strip, in the ends of which are formed holes, at *a'*. Corresponding to these holes in the corresponding parts of the strip A, are similar holes at *b'*. A tightening-cord, D, passes underneath the strip C, and up through the holes *a' b'* just described, with its ends attached to the end portions of the windlass B, as shown in fig. 1, and in such manner that by turning the said windlass upon its longitudinal axis, the cord may be wound upon or unwound therefrom, as the case may be, to bring the two clamping-strips, A C, at a greater or less distance apart. Attached to one end of the windlass is a ratchet-wheel, *c*, and pivoted to the adjacent end, *a*, of the strip A, is a pawl, *d*, working in connection with the aforesaid ratchet-wheel, to retain the windlass in position, with any required proportion of the tightening-cord wound thereon.

In using the clamp, the books, laid one upon another, are placed between the two strips A C, as shown in red outline in fig. I, and the windlass B is turned around to wind the cord thereon until the books are clasped tightly between the two strips, which, being done, the pawl *d*, catching in the teeth of the ratchet wheel *c*, holds fast the windlass, and by preventing any turning thereof, effectually confines the books between the two strips, whereupon the windlass may be grasped by the hand, and the books suspended therefrom may be very conveniently carried about.

202

In order to remove the books from the clamp, it is simply necessary to move the pawl from the ratchet-wheel, which being done, the strips may be moved farther apart, and the books may be taken out from between them.

What I claim as my invention, and desire to secure by letters patent, is:

The drum or windlass B, supported in suitable bearings at each end of the strip A, provided with a ratchet wheel, *c*, and pawl *d*, in combination with the strip C and cord D, substantially as and for the purpose specified.

W. C. WATSON.

Witnesses:
W. MORRIS SMITH.
SYDNEY E. SMITH.

203 U. S. circuit court, southern district of New York. In equity.

GEORGE CROUCH }
vs. }
WILLIAM ROEMER. }

Testimony taken on behalf of defendant for final hearing under rule 67 of the Supreme Court, as amended, in equity, before Ernest C. Webb, notary public.

NEW YORK, *August 9th*, 1875—11 a. m.

Present, Mr. AV. Briesen for defendant, and Mr. E. B. Barnum for complainant.

Examination of HAMILTON E. TOWLE.

Q. 1. What is your age, residence, and occupation?

A. Age 42, city of New York, civil and mechanical engineer, and it is part of my business to examine inventions. I am an inventor myself, and when required give evidence respecting other people's inventions.

Q. 2. Have you ever acted as expert in patent cases? And, if so, since when, and name some of the cases?

A. Yes, I have during the past four or five years. The most recent one is Roberts' gun case against Schuyler, Hartley, and Graham, and another is the same Roberts against Remington Fire Arms Company; another has reference to the manufacture of belting, and several others.

Q. 3. Do you consider yourself competent, as an inventor and expert, to distinguish between inventions and mechanical equivalents?

A. I do.

Q. 4. Have you read and examined reissued letters patent No. 4289, dated March 7th, 1871, for a shawl strap, and of which a copy, marked Exhibit A, is handed you?

A. I have read such copy, marked copy of Exhibit A, now handed to me, and I understand the same in every particular.

Q. 5. It is claimed on the part of the complainant in this suit that the shawl strap now handed to you, and marked Exhibit B, is an infringement of the reissued patent Exhibit A. Please examine the two exhibits, and state which of the claims of Exhibit A describes Exhibit B, or parts thereof, if any, and which claims do not describe Exhibit B, and give your reasons for any opinion you may express.

A. Exhibit B, now in my hands, is specifically described and claimed in the first claim of the reissue No. 4326, Exhibit A, in these words:

"The rigid cross-bar A connecting the ends of the handle B, and provided with loops c, for the straps D, substantially as and for the purpose set forth."

204 I find the rigid cross-bar A in the Exhibit B. It connects the ends of the handle, and it is provided with holes or loops, substantially as and for the purpose set forth.

The loops or holes described in the second clause of claim, in the Exhibit B, are not made of leather, they are made through the rigid bar itself, without leather, holes, or loops. This claim reads as follows:

"The loops C C, made of the leather of the handle, and secured to the rigid cross-bar A, as and for the purpose set forth."

Moreover the handle of Exhibit B has no leather loops upon it, but is secured to the rigid cross-bar by metallic fastenings riveted to the leather handle.

In respect to the third claim, the Exhibit B has no corrugated rigid cross-bar, it has a rigid cross bar, but it is not covered with leather as the third claim calls for.

Q. 6. Am I then to understand you, that in your opinion the shawl strap, Exhibit B, is covered by the first clause of claim of Exhibit A, but not by the second, nor by the third?

A. You understand me correctly.

Q. 7. Do you understand that Exhibit B, if made and sold without the leather straps, is described in the first claim of the reissued patent, Exhibit A, or does said claim cover only the complete article, Exhibit B, now in your hands?

A. That claim covers this shawl-strap device, whether sold with or without leather straps.

Q. 8. How do you arrive at this conclusion?

A. From the phraseology of the first clause of claim itself, which limits the combination therein claimed, to the rigid cross-bar provided with loops, which rigid cross-bar connects the ends of the handle, said loops being for a purpose, not claimed as a part of the combination, i. e. for the straps. The straps themselves not being claimed.

Q. 9. Do you find Exhibit B to have the loops referred to in the first clause of claim?

A. I find Exhibit B provided with holes, which are substantially the mechanical equivalent of loops. If the holes were not considered as loops, then the first clause of claim would not cover Exhibit B. It is only by considering such holes as loops that that claim covers this exhibit.

Q. 10. Look at the article now shown you, and state whether or not you find the same described in complainant's patent, Exhibit A; and, if so, in which of the claims of the same?

The article shown the witness is offered in evidence by defendant's counsel, and marked Defendant's Exhibit No. 1, Aug. 9th, 1875, H. C. W., notary.

A. This Exhibit No. 1 is also described in the first clause of claim; it has a rigid cross-bar connecting the ends of the handle, and it has the loop holes referred to in the said claim. As regards the second claim, it is not described in that. In respect to the third clause of claim, I find the rigid cross-bar made of sheet metal, that cross-bar is corrugated, but is not covered with leather.

Q. 11. Do you find Exhibit 1 adapted to and capable of the uses which are described in complainant's patent, and especially in the first clause of claim of the same?

A. I do. My reasons are as follows: The reissued letters patent describe the invention as a device for carrying or transporting shawls or bundles in such a manner that the suspending straps are kept apart, so as to preserve the proper shape of the bundle in transportation.
205 Exhibit No. 1 effectually performs this office in a manner described in the first clause of claim.

Q. 12. Look at the bundle-holder now shown you, and state how the cross-bar, handle and loops of the same differ, if at all, from Exhibit No. 1.

The bundle-holder last shown the witness is offered in evidence, marked Defendant's Exhibit No. 2, Aug. 9th, 1875, E. C. W., notary.

A. The only difference in those parts is in the position of the loop-holes, which in Exhibit No. 2 are through the flat horizontal part of the corrugated rigid bar, just at the point where it is bent up to connect with the handle; while in Exhibit No. 1, the loop-holes are in that part of the rigid cross-bar, which is bent up to unite with the handle.

Q. 13. Look at the bundle holder now shown you, and state whether or not the same appears to be covered by complainant's reissued patent Exhibit A.

The bundle-holder last shown the witness is offered in evidence, and marked Defendant's Exhibit No. 3, Aug. 9th, 1875, E. C. W., notary.

A. I find this exhibit, marked No. 3, has the rigid cross-bar provided with the loop-holes to which the ends of the handle are connected by means of a loop of wire. The rigid cross-bar is made of wood and has no leather. Exhibit A describes the invention, Exhibit No. 3, in these words: "My invention consists of a rigid cross-bar beneath the handle, combined with suspending straps, that are to be passed around the shawl or bundle, such straps passing through loops at the ends of the handle." The loop holes are through the ends of the cross-bar.

Defendant's counsel offers in evidence certified file-wrapper, contents and drawing in the matter of the letters patent granted Thomas Goodrum, dated October 16th, 1866, No. 58940, for School-Boys Bookbinder, and the same is marked Defendant's Exhibit No. 4, Aug. 9th, 1875, E. C. W., notary.

Q. 14. Please examine Exhibit No. 4, and state whether or not the same describes and illustrates the bundle-holder Exhibit No. 3.

A. I have examined the two and find that it does. I observe the click to the ratchet is gone from Exhibit No. 3. I find that the specification explains that it is not necessary that the cord through the ends of the rigid bar should be a single cord, it may be in two.

Q. 15. What do you find the specification of Exhibit No. 4 to say in regard to the direction of the string or cord?

A. It says it may be cut in two and secured at the ends to the extremities of the lower binding. I quote, "It is not necessary that the cord E should be a single cord, as shown in fig. 2 (corresponding to Exhibit 3), and be led lengthwise along the bottom surface of the lower binding, but it may be cut in two and secured at the ends to the ex

tremities of the lower binder." The inventor prefers the arrangement shown in Exhibit 3, for books.

Counsel for defendant offers in evidence letters patent, No. 69265, granted Sept. 24, 1867, to W. C. Watson, for a clamp for school books, and the same is marked Defendant's Exhibit No. 5, Aug. 9th, 1875, R. C. W., notary.

207 Also letters patent No. 75660, granted March 17th, 1868, to W. C. Watson, for portable book-clamp, and the same is marked Defendant's Exhibit No. 6, Aug. 9th, 1875, R. C. W., notary. And it is agreed between counsel that certified copies of these two patents may, at any time, be substituted for the originals.

Q. 16. Please look at the patents, Exhibits 5 and 6, and state whether the same describe and illustrate substantially the Exhibits Nos. 1 and 2.

A. I have examined them, and they do.

Q. 17. Please look at the tracing now shown you, and state whether the article illustrated thereon is, in your opinion, covered by complainants reissued letters patent, Exhibit A, and what, if any, difference exists between the same and defendant's shawl strap, Exhibit B, when the same is divested of the straps.

Tracing offered in evidence and marked Exhibit No. 7, Aug. 9th, 1875, R. C. W., notary.

A. Exhibit No. 7 is covered by Exhibit A, for these reasons:

I find in it the rigid cross-bar, with the loop-holes at the ends, by which straps passing through the same cannot approach each other. I also find that the same cross-bar prevents the ends of the handle from coming together. The handle being secured and connected to the said rigid cross-bar substantially as set forth in Exhibit A. When Exhibit B is divested of the straps, there is substantially no difference. The handle, however, in Exhibit B, is hinged to the cross-bar by the metallic connections heretofore described. While in Exhibit No. 7 the handle is fixed without a hinge movement, and in that respect Exhibit 7 is the same as Exhibit A.

Q. 18. Assuming that Exhibits 1, 2 and 3 were in public use and well known, prior to complainant's production of the article illustrated and described in reissued patent, Exhibit A, does such production, in your opinion, involve invention? In your answer give your reasons for your opinion.

A. If the Exhibits 1, 2, and 3 were in public use before the production shown in Exhibit A, the latter production, Exhibit A, would not involve any new invention. My reasons for this opinion are, that these Exhibits, viz. 1, 2, and 3, show as follows:

First. The rigid cross-bar connecting the ends of the handle. Said cross-bar is provided with loop-holes, for cords, or for some means of suspension.

Second. The corrugations forming one element of the combination, Exhibit A, third claim thereof, is shown in Exhibits 1 and 2, and these correspond with the cross-section fig. 2, Exhibit A.

Q. 19. Would it, in your opinion, require the exercise of inventive genius to stick the handle shown in fig. 1, of Exhibit A, on the bar of Exhibit 3 in lieu of the handle now on Exhibit No. 3?

A. It would not.

Q. 20. Do you find that the patent Exhibit A confines itself to any peculiar style, construction, form, or quality of cross-bar or loop?

A. It does not so confine itself; it, however, describes a cross-bar corrugated and covered with leather, and the loops shown as made from

leather, and folded to form loops, being the leather of the handle extended.

Cross-examined:

X Q. 21. In the construction of the first claim of Exhibit A, loops *c* should be so made as to receive the straps D, should they not?

208 A. They should conform one to the other, but the straps should conform to the loops, not the loops to the straps, as the inventor does not confine himself to any specific kind of strap.

X Q. 22. Loops *c* should be so arranged as to admit of the operation of the straps, described and shown, should they not?

A. Not necessarily so, for the reason, that the loops *c* are shown as made from leather of the handle B, the loops are thus unavoidably yielding, and will yield to a flat or round strap. The inventor states that he prefers loops, made from the leather of the handle, folded to form the loops such loops, would admit many varieties of strap, cord or rope through it. The loops should be of such a form, as to accommodate straps D D which the specification says are to be of any usual character. They should admit the operation of the straps D D.

X Q. 23. Question repeated.

(Objected to because already answered and because the patent does not describe the operation of the straps.)

A. They should be arranged for the suspending straps to pass through. By my first answer to this question I wish to be understood, when I said "not necessarily so" that no particular form or shape of the loop hole appears to have been the intention of the inventor, for if a particular form had been intended and described and claimed, then the invention so limited, would have been confined to such form. On the contrary the specification states that they "are to be of any usual character."

X Q. 24. Look at Exhibits 4, 5 and 6 and state what lettered part in each respectively constitutes the rigid cross-bar, to which you have testified.

A. In Exhibit No. 4, the rigid cross-bar is called a binder, and is marked with the letter A.

In Exhibit No. 5, fig. 1, the rigid cross-bar is there shown corrugated and is also marked with the letter A. It is there spoken of as a portion of the frame. In Exhibit No. 6, it is also shown corrugated and marked with the letter A, in both figures 1 and 2.

X Q. 25. Turn to Exhibit A, and state whether the rigid cross-bar is at right angles with, or parallel to the planes of the straps D. D.

(Objected to as immaterial as the straps D D are not part of the subject matter claimed in the patent.)

A. It is at right angles to the planes of the straps D D, as there shown.

X Q. 26. Look at Exhibits 1, 2, 3, 4, 5, 6, and 7, and state whether the rigid bar, that you have testified to, is at right angles with, or parallel to the planes of the cord or strap.

(Same objection.)

A. I hold in my hand Exhibit No. 1, which contains only the rigid bar, the handle and the loop holes; no strap is attached or shown in this exhibit. A strap or cord might however, be applied in either direction and used in this exhibit.

I now hold Exhibit No. 2; the rigid cross-bar in respect to the cord in its present position, I mean that part of the cord below the rigid cross-bar, is drawn up tight against it and is parallel to the length of the same. This cord may be placed in either direction respecting the cross-bar, depending upon how it is used and the character of the bundle.

I now hold Exhibit No. 3; the cord in this is now tightly drawn up through the loop-holes in the ends of the rigid bar, and that part below the rigid bar is now parallel to that bar; the cord or strap is not in use for holding any object; this cord also may be applied for carrying
209 bundles of various form in the manner described in Exhibit A. That is to say, so that carrying the package cannot draw the straps or cords passing through the holes in the ends of the rigid cross-bar any nearer together than the loop-holes in said cross-bar are themselves.

I now hold Exhibit 4 in my hand. Exhibit 4 relates to the article shown in Exhibit 3; the inventor explains that the cord may be not necessarily a single one, and he does not confine himself to a single cord. The cord is shown in fig. 1, diagonally upon the upper side of the rigid cross-bar, and it is shown in that figure how it is below that cross-bar, but in fig. 2 it is shown below the cross-bar as parallel to it and also vertical in respect to it; the cross-bar being parallel to that part of the plane of the cord which is below the cross-bar.

I now hold Exhibit No. 5 in my hand, and also Exhibit No. 6, both of which show that part of the cord, below the rigid cross-bar, in planes parallel to their respective cross-bars.

I now hold Exhibit No. 7; it is provided with a flat strap, passing through the loop-holes in the ends of the rigid cross-bar; that part of the strap immediately below the rigid cross-bar is shown with a plane of a flat surface at right angles to the rigid cross-bar.

X Q. 27. In complainant's invention do you find two straps, each of which is arranged to pass around and clasp the bundle?

(Same objection.)

A. They are so arranged in Exhibit A.

X Q. 28. Do you find in Exhibits 2 and 3, two straps or cords so operated?

(Same objection.)

A. In Exhibits 2 and 3 I find one cord in each. Two cords not having been applied as they are now operated.

X Q. 29. Do you find in Exhibits 4, 5, and 6 any description of a device having two cords, each of which is arranged to surround and compress the bundle?

(Same objection.)

A. I do not find two cords in either of them, but it is stated in Exhibit No. 4 that it is not necessary that the cords should be a single cord, and I can see that several cords may be passed up through the loop-holes at the end of the rigid cross-bar, leaving loops in those parts of the cord, below the rigid cross-bar, so that the same cords would receive through their said loops so formed the ends of any bundle that might be small enough to be inserted.

X Q. 30. Do you see any such thing mentioned or described in Exhibit No. 4?

A. It is not described there; it appears to me to be an obvious way to use the contrivance.

X Q. 31. State in what sense rigid bars in Exhibits 2, 3, 4, 5, 6, and 7 are cross-bars.

A. The question is not sufficiently clear to me to give a perfectly clear answer.

X Q. 32. What do you mean by calling rigid bars in these exhibits, cross-bars?

A. I mean they lie upon, over or across some object, or are so intended to do.

X. Q. 33. What object do you refer to?

A. I refer to whatever object may be included or enclosed within the cords or straps.

210 X Q. 34. Do you understand that to be the true interpretation of the term as used in Exhibit A?

(Objected to as intended to mislead the witness, whose former answer on this subject had no reference to Exhibit A.)

A. Yes, I do; that rigid cross-bar described in Exhibit A, lies upon, over or across the bundle, and also stretches across from one loop-hole to the other.

X Q. 35. Does not the fact that the rigid cross-bar in Exhibit A stretches across the straps D, convey any idea to you of the origin of the term cross-bar?

A. That idea would never have entered my head if you had not put it there yourself.

X Q. 36. What do think of it now?

A. Since the question has been asked, I have read the specification and find therein the following words:

"Before my invention, straps had been used to confine a shawl, or similar article, in a bundle, and a leather cross-piece with loops at the ends, had extended from one strap to the other; and above and attached to this leather cross-piece was a handle."

For the leather cross-piece the inventor substitutes a bar, which he terms a "rigid cross-bar," this cross-bar serving to keep the straps at the ends a fixed distance apart, by maintaining the same distance across the top of the bundle. The bar lying across the bundle is probably what gave it its characteristic name as a cross-bar.

X Q. 37. Are you aware of the fact that in practice a rigid bar does not lie across the bundle, but in the direction of its greatest length?

A. I am not aware of any such thing. It depends entirely on the shape of the bundle.

X Q. 38. What is the purpose of the straps D D, as described in Exhibit A, and how do they operate?

A. In Exhibit A they are described very briefly, as suspending straps; they are more particularly described as showing the function of the loops C and not describing their own function, but which, however, is in the particular application exhibited in one of the drawings, fig. 1, there shown as around some object of indefinite length. It may be intended to represent a shawl, or some similar package. I consider, however, the various devices, which have been placed in my hands, viz, Exhibits B, 1, 2, and 3, are so simple in their various uses and application that they may be understood in their uses by any person of ordinary intelligence.

X Q. 39. Do the cords and straps in Exhibit 2, 3, 4, 5, 6, and 7 perform the same office in substantially the same way as the straps D in Exhibit A?

A. They are in effect substantially the same thing, so far as Exhibit A is concerned. The other exhibits have additional features for tightening the cords or strap which are not included in Exhibit A.

X Q. 40. Are the cords and strap in Exhibit 2 to 7, inclusive, intended to perform any other office than that of regulating the pressure of the clamps?

A. Giving the new name of clamps to that, which we have heretofore called cross-bars, in all the exhibits, the cords and strap in all cases confine the bundle by their pressure upon the bundle directly and through the cross-bars or clamps. Where the clamps are made in pairs and are

made to extend outside of or beyond the bundle, in such case the clamps are intermediate between the cords and the object confined by the strap or cords.

211 X Q. 41. Is it not contemplated that the clamps as described in Exhibits 4, 5, and 6 shall be longer than the bundle to be enclosed?

A. It is so distinctly shown in Exhibits 5 and 6. In Exhibit 7 the enclosed bundle appears to just fill between the cords, but not enough in either case to bend the corners of a rectangular package.

X Q. 42. In your judgment, are Exhibits 2 and 3 capable practically of firmly securing the transportation of bundles of irregular shape?

A. As the cord is now arranged, Exhibits 2 and 3 are not favorably adapted for carrying irregular shapes, but if the same contrivance has a double cord or loop run down through the loop holes at each end of the rigid bar, such loops formed below would be a good practical apparatus for carrying irregular shaped bundles, such as is shown in fig. 1 of Exhibit A.

Redirect:

R. Q. 43. Look at the illustration at the back of the pamphlet now handed you, and state if the bundle holder there illustrated is not shown to hold bundles that are longer than the cross-bar.

A. Yes, it is so in the central figure.

R. Q. 44. Do you find any of the exhibits presented this morning to be there illustrated? And, if so, which.

A. Yes; Nos. 1, 2, 5, and 6.

R. Q. 45. Is that bundle illustrated in the central figure of the phamphlet what you would call a regular-shaped bundle or package?

A. It is an irregular-shaped bundle.

The pamphlet shown witness is offered in evidence and marked Defendant's Exhibit 8, August 9th, 1875, R. C. W., Notary.

R. Q. 47. You have this morning stated that the first claim of complainant's patent will cover the defendants' device, Exhibit B, even if the same is made and sold without the straps.

Look at the article now shown you, state what it is, and whether in its construction you find anything that would prevent the application of cords, strings, or straps parallel to, or at right angles with the bar thereof.

A. It is a bundle carrier, by means of which, with the use of cords, strings or straps, bundles of divers shapes and forms may be carried in a convenient practical manner, and the said cords, strings, or straps are not prevented by anything about this device from being applied in places parallel to or at right angles with the direction of the length of the rigid cross-bar to which the handle is secured.

R. Q. 47. Do you see anything in Exhibits 1, 2, 3, and 7 that will prevent the application to their cross-bars of straps passing transversely through the same?

A. There is nothing to prevent such an arrangement of the straps.

R. Q. 48. At what angle do the cords pass now through the cross-bars of Exhibits 2 and 3?

A. In the same direction as the holes, which are at right angles to the bar.

R. Q. 49. Even if the Exhibits 2, 3, and 7 had only been used in the way they are now shown, with the strings or straps parallel to and beneath the cross-bars, would it be invention to put the strings transversely through the cross-bars, as indicated in fig. 2 of Exhibit A?

A. It would require no invention whatever to so arrange the
212 strings. I mean it would not require the exercise of inventive faculties to so arrange and use them; only ordinary intelligence.

HAMILTON E. TOWLE.

Subscribed and sworn to before me this 9th day of August, 1875.

ERNEST C. WEBB (No. 4),
Notary Public, N. Y. County.

The last holder shown the witness Towle is offered in evidence and marked Defendant's Exhibit No. 9, E. C. W., notary, August 9th, 1875.

Adjourned to August 12th, 11 a. m.

NEW YORK, *August 12th*—11 a. m.

Met pursuant to adjournment. Present, counsel as before.

WILLIAM C. WATSON, a witness called on behalf of the defendant, being duly sworn, testified as follows:

Q. 1. What is your age, residence, and occupation?

A. Age, 60 years; I reside at Paterson, New Jersey; machinist.

Q. 2. Look at the patents marked Exhibit 5 and Exhibit 6, and state whether you are the same William C. Watson to whom said patents were issued.

A. Yes, sir.

Q. 3. State when you first made the invention which is described in Exhibit 5, patent September, 1867.

A. This Exhibit 6 is the first one; I made it in 1865. I made the other Exhibit 5 also in 1865, but later in the year. Exhibit 6 was applied for first, but Exhibit 5 was issued first.

Q. 4. When did you first make bundle holders like Exhibit 1 and 2?

A. This one now in my hand I made in 1865.

Offered in evidence and marked Exhibit No. 10.

This one now in my hand I made next, but also in 1865.

Offered in evidence and marked Exhibit No. 11.

This one now in my hand I made next, in the first part of 1867.

Offered in evidence and marked Exhibit 12.

Then came this Exhibit No. 2. It was made in 1867.

This Exhibit No. 1 was made in 1867.

Q. 5. State how many, about, of the bundle-holders, like Exhibit 12, you made or caused to be made.

A. Well, we might have made twenty-five thousand, and we might have made more, I can't tell without going to the books.

Q. 6. What is this? (Counsel showing witness a wooden pattern.)

A. It was made for carrying packages, bundles, boxes, &c. It is a handle.

Q. 7. Who made it, and when was it made?

A. I made it; it was made in the very last of 1865.

213 Q. 8. Is this a pattern or the complete article for market?

A. It is a pattern.

Offered in evidence and marked Exhibit No. 13.

Q. 9. What is this? (Counsel showing witness a brass casting.)

A. It is a brass casting from Exhibit No. 13.

Offered in evidence and marked Exhibit No. 14.

Q. 10. When did you first make castings from Exhibit 13?

A. In the first part of 1867.

Q. 11. What became of these castings?

A. Some I fitted up, and some I sold for old brass; too heavy.

Q. 12. Explain what you mean by fitting up these castings.

A. Well, I put a handle in here, between the uprights, and put some straps on.

Q. 13. How many straps did you put on each casting, and where did you put them?

A. I put one in the centre and one near each end, through these loops.

Q. 14. How many, about, of the bundle holders like Exhibit 14 did you fit up and sell?

A. We did not fit up many, because they did not sell; they were too heavy, and hurt the edges of the books. What we sold, we sold for carrying packages. We fitted up about 50 or 100. We gave away more than we sold. They were too heavy; they would rather take the others like this one, Exhibit 12, and some that were silver-plated, like Exhibit 2, but with the straps put on like Exhibit 12. Of these we sold near a hundred thousand.

Q. 15. Do you know when this style of bundle holder now shown you was first introduced?

A. About three or four years ago.

Marked for identification Exhibit Watson, E. C. W., notary, August 12th, 1875.

Cross-examined:

X Q. 16. Did you make both inventions described in Exhibits 5 and 6 in 1865?

A. No, sir; the ratchet one I did; the friction one in the last of 1866.

X Q. 17. What time in 1865 did you make the ratchet one?

A. It was in the spring of 1865.

X Q. 18. How did you fix that date?

A. Well, I own a mill in a place called the Goffle, near Paterson; I sold it, and I made this at that time. I have a memorandum book in which I find the entry that I came to New York on May 29th, 1865; the entry is as follows: "Went to New York, commenced book clamp or holder May the 29th, 1865."

X Q. 19. When did you first make Exhibit 12?

A. In 1867, the very first.

X Q. 20. How do you fix that date?

A. By the time when we hired the shop, 211 Centre street, New York City.

X Q. 21. When did you hire that shop?

A. We went to work in it on the 1st of May, 1867.

215 X Q. 22. How soon after did you make Exhibit 12?

A. I can't tell, it might have been a month and a half, it might have been a little more. We were running on Exhibit No. 11, when we took the shop.

X Q. 23. Were you a member of a firm at that time?

A. Yes, sir; our firm was Miller & Watson, Miller's name is Charles N. Miller. He is in the city somewhere. He is not a partner of mine now. We were only together one year.

X Q. 24. Did you have employees at that time?

A. About a dozen.

X Q. 25. Name some of them?

A. One was named Esler, and Edward Jackson, and Mary Johnson. Jackson acted as foreman when I was out; I tended to the shop myself.

X Q. 26. Where is Jackson now?

A. I understand that he is at Long Branch.

X Q. 27. When did Miller part from you?

A. It was about June, 1868.

X Q. 28. How many like Exhibit 12 did you make in 1867, without any reference to the dies?

A. We did not make a great many, we did not make over a half a gross.

X Q. 29. Can you name any parties to whom you sold them in 1867?

A. No; they were only transient parties who came in. We didn't wholesale them.

X Q. 30. When did you make Exhibit 13?

A. I made it in the last part of 1866.

X Q. 31. How do you fix that date?

A. I was sick with inflammation of the lungs and could not go out. It was on the corner of Water and North Main streets, Paterson; I was sick; I was with my wife's folks (Romaine's).

X Q. 32. Did you make Exhibit 13 yourself?

A. I did, while I was convalescent.

X Q. 33. When did you have Exhibit 14 cast?

A. I can't tell you. I can tell you where I had the first ones cast. I had the first ones cast at Barnett's, I think, at Newark, in 1866. Miller was with me.

X Q. 34. Have you any recollection of the date, except by reference to the weather.

A. Nothing but my diary. I have not my diary with me.

X Q. 35. How many of those castings did you have made?

A. I fetched them over to New York, what I had. There was very few. That is before we had the shop. I took them over to Miller's office; he was book-keeper for the New York and Eldorado Gold Mining Company, at 106 Broadway.

X Q. 36. What did you do with them then?

A. I took them and fitted them up. I think I took them to Smith's, in McCollum's place in Eldridge street. Smith was a machinist. At Smith's I trimmed them, drilled the holes in them, and had them japanned. I don't know who japanned them. His, the japanner's, place was in Elizabeth street, between Bayard and Grand. I then went up in Worth street and had the handles turned. I don't know the man's name. I put the straps on them, and I then gave it up, because the straps cost two much. I had them all finished and fitted up before I took that shop.

X Q. 37. Did you sell any of them?

A. I don't know, I don't think we did; we might.

216 X Q. 38. Do you recollect anybody that you gave them to?

A. I do not.

X Q. 39. Do you know where any of them are now?

A. No, sir; I do not.

X Q. 40. What kind of a mill was that Goffle mill?

A. It was a grist mill.

Redirect:

R. Q. 41. Will it be convenient for you to bring your diary here to-morrow and other papers that will show when you first made these several styles of bundle-holders, when you sold your mill, and when you were sick at Romaine's house?

A. Yes, sir.

Adjourned to Friday, August 13th, at 10½ a. m.

NEW YORK, *Aug.* 13*th*, 1875—10½ a. m.

Met pursuant to adjournment. Present, counsel as before.
The further examination of William C. Watson adjourned to 1 p. m.

NEW YORK, *Aug.* 13*th*, 1875—1 p. m.

Present, counsel as before.
Continuation of the examination of WILLIAM C. WATSON.

R. Q. 42. When did you separate your connection with Mr. Miller?

A. I can't tell.

R. Q. 43. When did you enter into partnership with him?

A. I can't tell. We never went into partnership; the shop was hired in Charley's name; the lease was taken out in Miller and Watson's name. There was a partnership, but we never had any partnership papers.

R. Q. 44. When did you join Mr. Miller in business, and when was that connection separated?

A. In 1866. We separated about a year after we took the lease in June, 1868. I don't know as we ever separated.

Adjourned to Monday, Aug. 16th, at 11 a. m.

NEW YORK, *Aug.* 13*th*, 1875—10½ a. m.

Met pursuant to adjournment. Present, counsel as before.

CHARLES N. MILLER, a witness called on behalf of the defendants, being duly sworn, testified as follows:

Q. 1. What is your age, residence and occupation?

A. Age 31; I reside at No. 222 Fifth avenue; commission merchant at No. 51 Broad st., N. Y. City.

Q. 2. Do you know William C. Watson here present, and were you ever in business connection with him? If so, state where, when, and in what class of business.

A. I do know William C. Watson; was engaged in business
217 with him, at 211 Centre street, in the manufacture of a patented article for carrying school books, packages, &c. I was in business connection with him, privately I think, in the latter part of 1866, and entered into co-partnership with him, I think in May 1867. Partnership extended over one year.

Q. 3. Look at the articles marked Exhibits 10, 11, and 12, and state whether or not you remember having dealt in such articles while in partnership with Mr. Watson?

A. I recognize them as articles of our manufacture under our patents, and such as were sold by us, during our copartnership.

Q. 4. Look at the casting marked Exhibit 14, and state when first you saw such castings, and where, and to what use they were put?

A. I can't recognize that casting. Mr. Watson attended to the manufacture, and I don't know whether he made that or not. He had a number cast over in Newark, very similar to this, of iron. If I should see those, I could recognize them.

Q. 5. Can you describe the castings that were made of iron, with reference to the position of the loops and to the handle?

A. I hardly think I can; I only saw them once; Mr. Watson had charge of them—of that branch of the work. The use of iron castings was at once abandoned; they were too heavy and too brittle. I suppose that is the reason; I don't remember. They were never worked up into stock and offered for sale. The iron was not considered strong enough, and they were abandoned right off. We made some like Exhibit 12, but much longer, for carrying large packages.

Q. 6. Please explain why you made bundle-holders like Exhibit 12 with cross-straps?

A. We made them larger than the exhibit, both for sale and for the delivery of our own goods, put up in boxes of one dozen each.

Q. 7. Do you remember inquiring into the price of straps for bundle-holders made substantially on the plan of Exhibit 14?

A. I do.

Q. 8. Was that before or after you entered into formal partnership with Mr. Watson?

A. I can't answer that positively, but my opinion is that it was before. My reason for so thinking is, that we had all those points under discussion before we finally settled upon a particular style to manufacture.

Q. 9. Do you remember going with Mr. Watson to Barnett's foundry in Newark to have castings made substantially like Exhibit 14?

A. I do.

Q. 10. Was that before you entered into copartnership?

A. Yes, it must have been 6 months before.

Q. 11. Were any of the finished bundle-holders made on the plan of Exhibit 14, subsequently exposed in your business establishment in Centre street?

(Objected to on the ground that witness has already testified that none were made up for stock.)

A. Not of that casting, these like Exhibit 12, were.

Q. 12. Are you positive they were not?—A. No, I am not.

Q. 13. Can you tell when first you saw bundle-holders made substantially like Exhibit 12?

A. Oh, no, I can't fix by any date.

Q. 14. Was it before or after you entered into formal partnership?

A. It was before we entered into formal partnership that we
218 made some with straps and some with cords. We had our machinery all ready before we had any copartnership papers.

Q. 15. What was the name of your firm?

A. Miller and Watson.

Cross-examined:

X Q. 16. What part of the business did you attend to?

A. Almost any branch of it, except the manufacturing.

X Q. 17. Did you do the selling and keep the books?

A. Well, I did selling, I can't say I did all the selling. I kept the books far enough to keep the business straight, all there were.

Q. 18. Can you tell how many straps, like Exhibit 12, you sold in 1867?

A. No, I cannot.

X Q. 19. Have you any idea how many?

A. No; not of any kind; I can't give the number of any kind.

X Q. 20. Are you positive you sold any like Exhibit 12 in 1867?

A. I am positive of everything except the dates; I could not tell what time in 1867 we commenced to supply the trade; we were some time getting things in order. I will not swear that I sold any of them in 1867, the date being the reason I can't state positively.

X Q. 21. In what order in point of time did you get out articles like Exhibits 10, 11, and 12?

A. I have no recollection as to the dates; Exhibit No. 10 was the first design, I think; then Mr. Watson, while his application was in the Patent Office at Washington shortly after made an application to pat-

ent Exhibit 11; it may have been six or nine months after the applications went into the Patent Office before the goods were ready for the market.

X Q. 22. How long after Exhibits 10 and 11 were on the market was it before you had Exhibit 12 ready for the market?

A. My recollection is that Exhibit 12 was made long before Exhibits 10 and 11 were ready for market.

X Q. 23. How long after Exhibits 10 and 11 were on the market, was Exhibit 12 put on the market?

(Objected to as assuming that the witness has stated that Exhibit 12 was put on the market after the others, which he has not stated.)

A. My recollection is, that they were all ready for sale at the same time.

X Q. 24. Did you sell articles like Exhibit 12 in large quantities?

(Objected to as indefinite.)

A. No, not as large quantities as the others; I don't think it was thousands.

X Q. 25. Do you recollect selling them to any particular person?

A. I remember distinctly a cigar peddler having one made to order for him, large size; Mr. Watson made it.

X Q. 26. Was that the first one sold or made?

A. I am very sure it wasn't the first one made; Exhibit 12 suggested the order to the man who saw it; the man came to sell cigars; he saw this and had one made.

X Q. 27. Do you know his name?

A. No; I do not.

X Q. 28. Do you know when this was?

219 A. While we were engaged in business at 211 Centre st., that is as near as now I can come to the time.

X Q. 29. When and of whom did you inquire as to the prices of the straps for bundle-holders made substantially on the plan of Exhibit 14?

A. I do not remember.

X Q. 30. How do you remember the fact?

A. I remember the fact just the same as I remember the fact of asking the price of handles, iron, and other articles used in our manufacture.

X Q. 31. How do you remember the particular fact of inquiring with reference to Exhibit 14?

A. I do not remember it.

X Q. 32. Who made your straps?

A. I do not remember, I do not think they were made in the shop.

X Q. 33. On your books would the entries made indicate or refer to the particular styles of bundle-holders?

A. I don't think they would.

The further examination of this witness adjourned to Monday, August 16th, 1875, at 11 a. m.

NEW YORK, *August* 16*th*, 1875—11 a. m.

Met pursuant to adjournment. Present, counsel as before.

JAMES HAMILTON, a witness called on behalf of the defendant, being duly sworn, testified as follows:

Q. 1. What is your age, residence, and occupation?

A. Age 69 years; Jersey City, 221 York street; trunk dealer at No. 2 Vesey street, New York City.

Q. 2. How long have you been in the trunk business?

A. About 20 years.

Q. 3. Where were you in business shortly before the war of the rebellion broke out?

A. Corner of 19th street and Broadway, New York; before that I was corner of Prince and Broadway.

Q. 4. Were you ever in business at No. 2 Courtlandt street, New York; and, if so, when?

A. Yes, sir; I couldn't give the exact date without referring to papers. It was some 16 or 17 years ago.

Q. 5. While in business in Courtlandt street, do you remember having made and sold certain bundle holders or shawl straps? And, if so, describe how the cross piece connecting the straps was made.

A. The strap that I made was a piece of leather, rounded, with the ends flattened to form loops, with a piece of hoop-iron running across the flattened part, forming a loop, riveted through this iron, with the strap at each end running through the loop, to secure the bundle.

Q. 6. Look at the article now shown you and point out in what respect, if at all, the same differs from the shawl strap described in your last answer.

The article shown the witness is offered in evidence, and marked Exhibit Rumpp.

A. This differs from mine; instead of the bar terminating at the ends of the handle, it run all the way out.

220 Q. 7. How many such rigid bar straps did you make and sell? And state how you came to make the first.

A. Well, I made but a few of them; the way I came to make it, a man came in one day, a peddler, I think; he wanted to know if I could make a strap that would carry a bundle without pulling up. Then the idea suggested itself to me of making it with a stiff bar across.

Q. 8. How many did you make for the peddler?

A. I think but one; it may have been two.

Q. 9. And after that did you make others like it; if so, what for, and what did you do with them?

A. I made a few others and sold them at the store.

Q. 10. Where was that store?

A. At No. 2 Courtlandt street.

Q. 11. Do you remember in what year you left the store at No. 2 Courtlandt street?

A. I do not remember the year.

Q. 12. Was is before the war broke out or not?

A. Oh, yes; it must have been 16 years ago at least.

Cross-examined:

X Q. 13. Were you engaged at this time in the manufacture of shawl straps?

A. No, trunks I was; I made those straps.

X Q. 14. How many did you make altogether?

A. Not more than half a dozen; I have no positive recollection of the number.

X Q. 15. Did you make any subsequent to your occupation of No. 2 Courtlandt street?

A. If any, I made very few of them. I remember the same peddler coming to me at the corner of Prince and Broadway; he wanted one of the same kind, and I made him one.

X Q. 16. When was that?

A. That must have been about three years before the war.

X Q. 17. Do you know who that peddler was?
A. I do not; I don't know his name.
X Q. 18. Do you know where he was, or is?
A. No, sir; I know nothing about him.
X Q. 19. Do your books show any entry of this sale to him?
(Objected to as immaterial.)
A. I will not be positive that I kept any books; I was doing a small business.
X Q. 20. Do you know the name of any persons to whom you sold these straps?
(Same objection.)
A. No, sir.
X Q. 21. Were you familiar with the trade in shawl straps prior to 1868?
(Objected to as going outside of the matter touched upon in the direct examination, and counsel is warned that by so doing he makes the witness his own.)
A. Somewhat familiar; I dealt in them some.
X Q. 22. Have you been since?
A. I have dealt in them all along to a certain extent.
X Q. 23. Who first introduced the rigid bar strap to the trade, as far as you know?
(Same objection, and because immaterial.)
221 A. Well, I think that Messrs. Crouch and Fitzgerald.
(Counsel for defendant objects that the whole answer has not been taken down, because opposite counsel has been brow-beating the witness, and insists that all of the answer should be taken down. To which counsel for complainant responds that all the answer pertinent to the question has been taken.)

Redirect:

R. Q. 24. Do you mean to say that Crouch and Fitzgerald made and sold rigid bar shawl straps before you did?
A. No, I don't mean to say that.
R. Q. 25. What did you understand by the term introducing to the trade as expressed in X Q. 23?
A. Well, I suppose he meant selling to the trade to sell again.

Recross:

R. X 26. Did you not understand that the term, introducing to the trade, meant the putting the article into the general market for the first time?
(Objected to, as the witness has already stated what he understood by the term.)
A. Yes, I should think so.

Redirect:

R. Q. 27. Did you not introduce your rigid bar shawl strap into general market by exposing the same for sale in your store?
A. Well, I could not say that I considered it so, because at the time I made my shawl strap I had no idea that it would turn out to be in general use as it has.
R. X Q. 28. Did you ever manufacture shawl straps?
A. Not generally, not in my business; I have occasionally made some three or four at a time.

JAMES HAMILTON.

Subscribed and sworn to before me this 16th day of August, 1873.
ERNEST C. WEBB (No. 4),
Notary Public, N. Y. County.

JAMES HAMILTON, Jr., a witness called on behalf of the defendant, being duly sworn, deposes and says as follows:

Q. 1. What is your age, occupation, and residence?

A. Age, 28; occupation, trunk dealer; Bergen Heights, Jersey City, N. J.

Q. 2. When did you first enter the trunk business, and with whom?

A. I entered it with my father, James Hamilton, in 1868, as near as I can recollect, that was when I went in partnership with him. I worked at the business ever since I was about 11 years old; I entered my father's store, corner of Prince street and Broadway, when I was about 11 years old.

Q. 3. Do you remember about when your father's business was removed from Prince street, and where next it was carried on?

A. I don't remember when it was removed; it was next carried on corner of 19th street and Broadway.

222 Q. 4. Were you in his business, corner of 19th street and Broadway?

A. I was.

Q. 5. Do you now deal in shawl straps that have rigid cross-bars?

A. Yes, sir.

Q. 6. When first and where did you see a rigid bar shawl-strap?

A. Corner of 19th street and Broadway. I don't remember the date, but it is about fifteen or sixteen years ago.

Q. 7. Who made it, and what became of it?

A. My father made it; I don't know what became of it in the end. A party came into father's store to buy a shawl-strap, to carry heavy parcels; not having one strong enough, the idea suggested itself for him to use a piece of hoop iron to make the strap stiff, which he did.

Q. 8. Do you know whether or not he delivered and sold that strap?

A. I do; the party took it and paid for it.

Q. 9. Please describe where the hoop iron was put in that strap, with reference to the handle and the leather straps.

A. It was put under the handle and riveted through—(Witness pointing to Rumpp Exhibit says)—the handle was riveted on the hoop iron. The bar run up further than in Exhibit Rumpp. My impression is the strap was made complete and the iron riveted on to it.

Cross-examined:

X Q. 10. How long had your father been at the corner of Prince and Broadway before you went to work with him?

A. I couldn't tell that.

X Q. 11. How long did he remain there after you went to work with him?

A. I couldn't recollect.

X Q. 12. How long did he remain at 19th street and Broadway?

A. I couldn't tell that exactly.

X Q. 13. What was you employed at, corner of Prince and Broadway?

A. Making myself generally useful.

X Q. 14. Were you employed in making articles in leather?

A. Yes; assisting as a boy would around a store.

X Q. 15. How many employees did your father have at Prince street?

A. Three or four, as near as I can recollect.

X Q. 16. State what were their names.
A. I don't recollect but one, James Hamilton, my cousin.
X Q. 17. Where is he?
A. Working for Mr. Lozier; I think his place is corner of Canal street and Mott.
X Q. 18. How many employees did your father have in 19th street?
A. I don't recollect.
X Q. 19. Do you recollect the names of any of them?
A. No.
X Q. 20. What was the color of that strap?
A. As near as I can recollect it was light colored leather.
X Q. 21. Is your memory at all clear on that point?
A. Not very clear, no, as to color.
X Q. 22. What price was paid for that strap?
A. I don't recollect.
X Q. 23. What was the man's name?
A. I don t recollect.
X Q. 24. What was the man's general appearance?
A. I couldn't tell you that.
223 X Q. 25. What is now your business?
A. Trunks.
X Q. 26. Where do you carry it on?
A. At 99 Wall street, and corner of Wall and Broadway.
X Q. 27. Are you alone, or have you a partner?
A. Alone.
X Q. 28. Do you own these two places of business?
A. Yes, sir.
X Q. 29. What was the shape of the handle of that strap?
A. As near as I can recollect it was the same as this (pointing to Exhibit Rumpp), round.
X Q. 30. Is your memory clear on that point?
A. Pretty clear; yes, sir.
X Q. 31. How large was that strap?
A. Pretty hard to recollect that. I think it was as large as this (indicating Rumpp exhibit).
X Q. 32. Have you talked to your father about this matter?
A. I have.
X Q. 33. When?
A. A month or so ago.
X Q. 34. Any other time?
A. Not that I can recollect.
X Q. 35. What conversation did you have with him?
A. I asked him if he was notified as a witness in this case; he said he was. Nothing else of any account.
X Q. 36. Do you recollect whether the strap you have testified to was made in your father's shop, or did he take any ordinary strap of some one else's manufacture and add the iron to it?
A. I can't recollect that; I am not very clear about that.
(Question and answer objected to as immaterial.)

J. HAMILTON, JR.

Subscribed and sworn to before me this 16th day of August, 1875.

ERNEST C. WEBB, (No. 4.)
Notary Public, N. Y. County.

Adjourned to August 17th, 1875, at 11 a. m.

NEW YORK, *August 17th*, 1875—11 a. m.

Met pursuant to adjournment. Present, counsel as before.

JOHN ROWEN, a witness called on behalf of the defendant, being duly sworn, testified as follows:

(Defendant's counsel states that the name of this witness was by inadvertence misspelled in the answer, where it appeared as Roan, and requests that complainant consents that the answer be amended, by substituting the correct name of Rowen for Roan. To which counsel for the complainant consents.)

Q. 1. What is your age, occupation, and residence?

A. My age is 31, the 23d of next March; trunk and satchel manufacturer, 932 East Lehigh avenue, Philadelphia, Penn.

Q. 2. Are you in business for yourself?

A. Yes, sir.

224 Q. 3. Since when have you been in business for yourself, and state where that was?

A. I have been in business thirteen years, since I was 18 years old. I first commenced at 243 Wildey street, Philadelphia.

Q. 4. How long were you in Wildey street, and where next was your business?

A. I was in Wildey street about a year, I suppose, and from there I went to 449 Richmond street, Philadelphia.

Q. 5. Are you married, and, if so, when did you marry?

A. I am married. I was married on the 16th day of November, 1864.

Counsel showing witness a bundle-holder, asks—

Q. 6. What is this?

A. This is a strap or handle, that I made for me and wife together, before we were married, to take a little excursion together. That was in September or October, 1864.

Offered in evidence, and marked Exhibit Rowen, Aug. 17, 1875, E. C. W., notary.

Q. 7. What is in the cross-bar or brace of Exhibit Rowen, that renders it stiff?

A. Hoop-iron.

Q. 8. What suggested to you this style of bundle-holder?

A. Well, this is not my own arrangement at all, not my idea. I got my idea while I was working on government work, from a man that carried home work at night, and that is the way that I came to make this strap.

Q. 9. Did you manufacture shawl-straps or bundle-holders extensively while you were in business for yourself?

A. Well, I manufactured them and sold them by the dozen.

Q. 10. When first did you manufacture and sell bundle-holders?

A. I refer to my memorandum book; the first to my recollection in this memorandum book is Oct. 20th, 1864.

Q. 11. Please read from that memorandum book all the entries you find relating to bundle-holders made and sold by you.

(Objected to as incompetent.)

A. First on page 114, Phil., Oct. 20th, 1864.

Mr. Frazier, bo't of John Rowen,

1 doz. bundle-straps, with covered iron brace, $7.75.

1 doz. bundle-straps, plain, $4.25.

Second, same page, Oct. 21st, 1864.

Mr. F. C. Hamil, bo't of John Rowen,

½ doz. bundle-straps, $2.12½.

½ doz. bundle-straps with brace, plain, $3.00.

Third, on page 115, Oct. 28th, 1864.

Consigned to auction, 12 bundle-straps, plain.

Fourth, same page, Nov. 2d, 1864.

Mr. Hyde, bo't of J. Rowen,

½ doz. bundle-straps, with plain brace, $3.00.

½ doz. bundle-straps, with iron brace, covered, $4.00.

Fifth, on page 116, Phil., Nov. 4th, 1863.

Mr. Hyman, bo't of John Rowen,

1 doz. bundle-straps, with iron brace, covered, $7.50.

1 doz. bundle-straps, plain, $4.25.

Sixth, on page 123, Phil., Dec. 13th, 1864.

Mr. Reinstein, bo't of John Rowen,

1 doz. bundle-straps, with plain brace, $6.00.

1 doz. bundle-straps, plain, $4.50.

225 Seventh, on page 127, Phil., Dec. 22d, 1864.

Mr. Hyman bo't of John Rowen,

½ doz. bundle-straps, with covered brace, $3.75.

½ dozen bundle-straps, plain brace, $3.00.

That is about all there is in this memorandum book.

Q. 12. In whose handwriting is that memorandum book kept?

A. My own.

The memorandum book is offered in evidence, and marked Defendant's Exhibit 15, Aug. 17th, 1875, E. C. W., notary.

(Objected to as incompetent.)

Q. 13. When were the entries made in that memorandum book?

A. I suppose just the time they are dated there in that book.

Q. 14. Why do you say, I suppose?

A. The reason that I say that is because I might have made the sale one day and entered it the next.

Q. 15. Describe the bundle-holders which you have called "bundle straps with covered iron brace;" also, those called "bundle straps with plain brace;" and also those called "bundle straps plain."

A. The first one is the one that I called bundle straps with covered iron brace, are similar to this one, Exhibit Rowen, only much neater. The one that I called bundle straps with plain brace has got a piece of walnut wood, instead of the iron, and are not covered with leather. The one that I call bundle straps plain is just a simple handle, with a loop at each end for the straps to run through.

Q. 16. Describe more particularly the mode in which the covered iron brace was made, and how it was connected to the handle and loops.

A. I first made the handle; I then took a piece of leather about nine inches long, 1¼ inch wide; I then stitched the handle to that piece of leather which I cut out, and then took a piece of hoop iron, about an inch wide, and 8¼ inches long, and laid that underneath of the first piece of leather; I then cut a second piece, the size of the first, and stitched entirely around the iron, and that constituted the covered iron brace bundle strap. The loops were formed by part of the handle, stitched down to the end of the leather, that extending over the iron, and then a space of about ¾ of an inch left for to run a strap through, and then other stitching close up to the round part of the handle.

Q. 17. State in what years you made and sold bundle-holders having metal or wooden braces.

A. I sold them in the year 1864, 1867, 1868, 1869, 1870, 1871, 1872, 1873, 1874, and 1875.

Q. 18. Why did you not sell any in 1866?

A. The reason that I did not sell any in 1866, was that I moved to Absecon, N. J., from Philadelphia, Penn., and went into the harness business.

Q. 19. How about 1865?

A. I was at Absecon for two years, 1865 and 1866 both.

Q. 20. What part of 1865 did you leave Philadelphia?

A. The latter part.

Q. 21. State whether or not you sold bundle-holders in the first part of 1865?

A. I think I did. I have made a mistake in those dates in answering the question what time I left Philadelphia. I left Philadelphia in the spring of 1866, and stayed in Absecon about one year. I moved from Absecon to a place called Williamstown, in Camden County, N. J., and stayed there about one year. Now, in reference to those
226 dates, I told you I manufactured those goods, I manufactured them in 1864, 1865, 1868, 1869, 1870, 1871, 1872, 1873, 1874, and 1875.

Q. 22. Describe the kind of bundle-holders you made in 1865?

A. They were similar to those I made in 1864, only much neater.

Q. 23. What do you mean by similar?

A. I mean that they had the iron betwixt two pieces of leather, and the loops were formed by the handle being turned under, and a rivet to go right through the iron, leather and all.

Q. 24. You say in answer 21 that you think you sold bundle-holders in 1865. Please state what you know, and not what you think in regard to that fact.

A. I know that I wasn't in New Jersey in that year, and I am pretty positive that I made them in every year except the two that I was in New Jersey.

Q. 25. Look at this book and state in whose handwriting the entries therein are made.

A. They are in my own handwritting.

Q. 26. What do the entries represent and when were they made?

A. They represent goods that I had in stock in 1865, finished and unfinished; also, an account of money that I received for sales that I had made and for cash paid out for material, &c.

Q. 27. When were the entries made?

A. They were made on the month that they were dated here. The way that I kept this book, I dated the first sale that I made in the month, and followed on without making dates of sales, until the following month.

The book is offered in evidence by defendant's counsel and marked Exhibit 16, Aug. 17th, 1875. E. C. W., Notary.

(Objected to as incompetent.)

Q. 28. Please read from Exhibit 16, entries of sales relating to rigid bar bundle-holders?

(Same objection.)

A. April 3d, 1865, Mr. Hyman, by cash B. straps with B. covered, $7.50.

May 2d, 1865, Mr. George W. Taylor, by cash, bundle straps, covered B, $7.50.

Mr. R. Frazier, by cash, bundle straps, with covered brace, $3.75.

July 1st, 1865, Mr. A. Reinstein, ½ doz. bundle straps, covered brace, $3.75.

Sept. 1st, 1865, Mr. Hyman, ½ doz. B. straps, $3.75.

Cross examined:

X Q. 29. Where were you born?

A. In Philadelphia, Pa. I suppose that I was born at 243 Wildey street.

X Q. 30. When did you first enter the trunk and satchel business in any capacity?

A. In 1862.

X Q. 31. With whom?

A. Daniel F. Bispham.

X Q. 32. Where?

A. On Richmond street, above Sarah.

X Q. 33. How long did you stay with him?

A. I suppose about 8 months.

X Q. 34. What did you do, while with him?

227 A. I worked on government work, knapsacks, cartridge-boxes, and all sorts of military work.

X Q. 35. What particular part of the work did you do?

A. Stitching, creasing, and finishing.

X Q. 36. Did you ever work in leather prior to that time?

A. No, sir.

X Q. 37. Where did you go next?

A. Took out work for myself.

X Q. 38. Where were you located?

A. 243 Wildey street.

X Q. 39. From what house did you take work?

A. I took it from a party who had a subcontract, Coombs, I think.

X Q. 40. Where was he located?

A. Located in Market street, near Ninth, to the best of my recollection.

X Q. 41. When was that?

A. That was in the latter part of 1862, or first of 1863.

X Q. 42. How long did you take work from him?

A. About three months, I judge.

X Q. 43. What kind of work?

A. Knapsacks.

X Q. 44. Where is Coombs now?

A. I couldn't tell that.

X Q. 45. When and where did you last know of him?

A. That is the last that I do know of him, I never followed him up after that.

X Q. 46. What did you do next?

A. I worked on government work a short time for Charles Mansfield, I guess about two or three months.

X Q. 47. Where was he?

A. In Market street, between Front and Second street. I don't know the number.

X Q. 48. Where is he now?

A. He is dead.

X Q. 49. When and where did he die?

A. He died in Philadelphia, while he was on the police force as a patrolman.

X Q. 50. What did you do next?

A. I commenced to work for myself.

X Q. 51. Where?

A. 243 Wildey street.

X Q. 52. When was this?

A. About 1863.
X Q. 53. What did you commence to make?
A. School-satchels, book-straps, &c.
X Q. 54. What kind of book straps?
A. A plain strap with a buckle on.
X Q. 55. How did you dispose of your goods?
A. Putting them under my arm, and going from door to door—stores —to sell them.
X Q. 56. From whom did you get the idea of making Exhibit Rowen?
A. From a party that was working on government work for Charley Mansfield. He made the first one to carry home his work.
X Q. 57. What was his name?
228 A. I think his name was Sloan; that is all I know about his name.
X Q. 58. Where and when did you see him last?
A. The last time I saw him was in Charley Mansfield's shop, bundling him up work to take home. That was in 1862, or 1863.
X Q. 59. Have you heard of him since?
A. No, sir.
X Q. 60. How was his strap made?
A. Made by a piece of hoop iron, a piece of $\frac{5}{8}$ or $\frac{3}{4}$ leather riveted on to the iron (the iron was not covered), and two straps running through the loops at the end of iron. The end of the leather was doubled to form the loops. I mean the leather of the handle.
X Q. 61. What year was this?
A. The latter part of 1862, or the first of 1863.
X Q. 62. Did you talk with him about it?
A. No, sir.
X Q. 63. Did you make Exhibit Rowen?
A. Yes, sir.
X Q. 64. When?
A. About the first part of October, or the latter end of September, 1864.
X Q. 65. Where has it been since?
A. In my possession ever since, laying around the house.
X Q. 66. In 1864, did you live at 243 Wildey street?
A. Yes, sir.
X Q. 67. Did you keep house there?
A. My parents lived there.
X Q. 68. Where did you go to live after you were married?
A. Corner of Ash and Thompson.
X Q. 69. Have any number on your house?
A. Not as I recollect.
X Q. 70. What corner was it?
A. On the southeast corner.
X Q. 71. How long did you live there?
A. About four or five months.
X Q. 72. Where did you live next?
A. At 243 Wildey street, boarding with my parents.
X Q. 73. How long did you live there?
A. I judge I lived there about 8 months.
X Q. 74. Where did you live next?
A. At Absecon.
X Q. 75. How long did you peddle your goods?
A. Very near two years.
X Q. 76. Who did you sell to?

A. Principally to retail stores. I couldn't tell their names, unless I refer to my memorandum book.

X Q. 77. Does your memorandum book contain all your sales, within the dates covered by it?

A. Yes, sir; as it now is.

X Q. 78. How soon, after you made Exhibit Rowen, did you make such bundle-holders for sale?

A. It might have been two or three months. I could tell by referring to that book, Exhibit 15.

X Q. 79. Are you sure it was two months?

A. I wouldn't like to say positive, unless I could look at my book. I know it is there.

229 X Q. 80. You have testified, reading from that book, that the sale to Frazier, Oct. 20th, 1864, was the first entry you find. Are you satisfied that is the first you made and sold?

A. That is the first I made and sold.

X Q. 81. Do you recollect the circumstances under which you made and sold those straps to Frazier?

A. The same that I did all kinds of work, made it on a risk, and run the chances of selling.

X Q. 82. Have you any recollection now, as to that transaction?

A. Not particularly so, only that it's on the book.

X Q. 83. Are you positive that Exhibit Rowen was made by you the last of September or first of October, 1864?

A. To the best of my recollection, that is the fact.

X Q. 84. When and where, and by whom were you married?

A. I was married on the 16th of Nov., 1864, at the Rev. D. L. Paterson's house. I am not positive about the initials by him. I think he was a Methodist pastor, of Siloam Church I believe. His house was on Marlborough street, near Thompson.

X Q. 85. How did you come to call these articles bundle-straps?

A. Because I seen bundles carried by the one I saw made.

X Q. 86. Were you not familiar to the terms applied to articles in the trunk and satchel line in 1864?

A. I think that I was, generally speaking; some things I might have termed wrong.

X Q. 87. Did you not know in 1864 that articles of a similar nature were known in the trade as shawl-straps?

A. No, sir; I have known them of a similar nature to be called book-straps.

X Q. 88. Did you ever know that they were called shawl-straps?

A. I heard them called shawl-straps in 1867.

X Q. 89. Not before?

A. Not to my recollection.

X Q. 90. Did you in 1864 or prior to that date make any book-straps with braces?

A. No, sir.

X Q. 91. How did you make book-straps in 1864?

A. I think that I made two different kinds. I know that I made just a plain strap with a buckle on the end. I think one kind with a handle on; I couldn't exactly describe it.

X Q. 92. How did you make them in 1865?

A. About the same way, I think, as in 1864.

X Q. 93. Are you positive that you made a book-strap in either 1864 or 1865, with a handle on?

(Objected to as immaterial.)

A. I wouldn't like to swear positive, without referring to that book; if it states so, I suppose I made them.

X Q. 94. What was Mr. Frazier's full name?

A. I don't know; I couldn't tell; I think it was Robert; I couldn't be certain.

X Q. 95. Where was his place of business?

A. I think it was on Girard avenue, in the neighborhood of Seventh or Eighth street.

X Q. 96. When did you last see him?

A. The last time I saw him he kept a store on Eighth street, between Arch and Walnut streets, in 1865, I think.

230 X Q. 97. Have you known about him since?

A. No, sir.

X Q. 98. What business was he in?

A. Fancy goods and toys.

X Q. 99. What business did F. C. Hamil carry on and where?

A. Shoe business, next door to the Red Lion Hotel, Second street, below Noble. It might have been in the hotel building.

X Q. 100. When did you last see or hear of him?

A. It must have been five weeks ago.

X Q. 101. Is he in business now and where?

A. He, or his wife, is in business in Vine street, near Ninth street.

X Q. 102. What kind of business?

A. Shoe business.

X Q. 103. Where was he when you saw him?

A. The last time I saw him was in Sixth and Sansom streets, on the corner.

X Q. 104. Is he a fugitive from justice now?

(Objected to as immaterial, and as calling for hearsay, and the officer is requested to instruct the witness that he should testify only on matters within his personal knowledge.)

A. I don't know.

X Q. 105. Have you not stated so, in effect, in presence of the officer taking this deposition, and of the counsel?

(Same objection, and the officer is requested to certify on the record that the witness asked counsel not to question him in regard to F. C. Hamil, as he, the witness, had learned that said Hamil was a fugitive from justice, or words to that effect.)

Pursuant to the above request, I certify that the witness Rowen stated in presence of counsel, that he would not like to have any statement he might make relative to said Hamil go upon the record, or words of like purport, and gave as his reason for such request, that said Hamil was a fugitive from justice.—E. C. Webb, notary.

A. I have stated that I didn't know that he was now.

X Q. 106. What auctioneer did you send straps to in 1864?

A. I never made any account of the names of auctioneers to whom I sent goods to auction off.

X Q. 107. Do you know the name of the auctioneer, or any auctioneer, to whom you consigned goods in 1864 or 1865?

A. Not of any particular consignment.

X Q. 108. Do you of any other consignment?

A. I can't name any particular one to whom any certain consignment went to; I know the name of all the auctioneers who sell in Philadelphia. Probably I sent goods to all of them at different times. I can't name 1864.

X Q. 109. What's the full name of Mr. Hyde?

A. I couldn't say.

X Q. 110. What was his business in 1864, and where did he carry it on?

A. Fancy goods and notions; he carried it on in Frankford road, near Laurel street.

X Q. 111. When and where did you last see or hear of him?

231 A. Well, I ain't saw him for, I can't tell how long, it has been a good while.

X Q. 112. How many years?

A. I'll say three; I can't tell where.

X Q. 113. How long did he carry on that business in Frankford road?

A. It is more than I can tell.

X Q. 114. How many times did you sell him goods?

A. I can't state that for a certainty, unless I look at my book.

X Q. 115. How many from your recollection?

A. I can't tell. It has been some years ago.

X Q. 116. What is the full name of Mr. Reinstein?

A. Alexander, I believe.

X Q. 117. What business did he carry on, and where?

A. Shoe business, Second street, below Vine street; south side of Second street.

X Q. 118. How long did he carry on business there?

A. I don't know.

X Q. 119. When and where did you last see him?

A. About three months ago, on Third street, above Market, on the street.

X Q. 120. Is he in business now?

A. I think he is.

X Q. 121. Where?

A. I did hear in the neighborhood of Fifth and Green streets, in a life insurance business.

X Q. 122. What is the full name of Hyman?

A. I don't know.

X Q. 123. What business did he carry on, and where?

A. Shoe business, Second street, below Girard avenue.

X Q. 124. When and where did you last see him?

A. I saw him on Seventh street, below Vine, north side, where he kept a shoe store. I can't exactly recollect when; his brother keeps there now. I am sure I saw him five years ago.

X Q. 125. What business did George W. Taylor carry on, and where?

A. He carried on the shoe and trunk business, at Fifth and Market streets, southeast corner.

X Q. 126. How long did he carry it on there?

A. Quite a number of years, from as long as I can remember until about three years ago. He is now dead.

X Q. 127. Do you swear that the entries made in Exhibits 15 and 16 were made at the dates respectively mentioned?

(Objected to, as the witness has already testified how the entries were made with regard to date.)

A. I did state before that the entries in Exhibit 15 might have been made a day after the sale. The entries in Exhibit 16, the entries at the head of each page were either made on the day of the sale, or day after, and the other entries were made without date until the following month commenced.

X Q. 128. Do these two books contain all your business from February 1st, 1863, to December, 1865?

A. No, I don't think they do.

X Q. 129. What is omitted?

A. In Exhibit 16, I know that the first leaves were torn out by my children. In Exhibit 15 thirty-one leaves are omitted, from pages
232 21 to 52, and from 67 to 103 are omitted, and from 15 to 20 and from 1 to 14. Pages 14 and 15 are here.

X Q. 130. Did you go into business for yourself at Absecon?

A. Yes, sir.

X Q. 131. Did you have a partner or partners?

A. No, sir.

X Q. 132. Was that true at Williamstown?

A. Yes, sir.

X Q. 133. When did you go in business in Philadelphia, after that?

A. As soon as I came up from down in New Jersey.

X Q. 134. When was that?

A. I can't recollect exactly.

X Q. 135. About when?

A. Well, say in 1867.

X Q. 136. What part of that year?

A. Between March and July.

X Q. 137. Where in Philadelphia?

A. Ellsworth street, above 21st street; I don't recollect the number.

X Q. 138. Was it a store?

A. No, a dwelling-house.

X Q. 139. What business did you carry on?

A. Trunks, school-bags, straps, &c.

X Q. 140. How long did you carry it on there?

A. Two months; I had a partner there.

X Q. 141. What was his name?

A. George W. Geyer.

X Q. 142. Where did you go from there?

A. To 1115 Pine street. That was a store on the first floor.

X Q. 143. How long did you remain there?

A. I can't tell exactly, about three months. Mr. Geyer was still my partner.

X Q. 144. Where did you go then?

A. I think I went home to board again at 243 Wildey street. Geyer ceased to be my partner then, and shortly after he was appointed a lieutenant of police.

X Q. 145. Did you carry on the business there?

A. In a small way.

X Q. 146. How long there?

A. About two months.

X Q. 147. Where did you go next?

A. To Front street, below Otter; I don't recollect the number. I am a poor hand to recollect numbers. It was on the north side street. This was my residence.

X Q. 148. Did you carry on the same business there?

A. Yes, sir.

X Q. 149. How long?

A. About four months, I guess.

X Q. 150. Where did you go next?

A. To 1039 Crease street. That was my residence.

X Q. 151. How long did you carry on the business there?

A. About a month.

X Q. 151½. When did you remove from there?

A. I removed my business from there, to West Girard avenue, two doors below Frankford road. I removed about 1870.

233 X Q. 152. Did you remove your business to West Girard avenue immediately after you ceased doing business at Crease street?

A. I think I did.

X Q. 153. How long did you carry on business at West Girard ave.?

A. About three months.

X Q. 154. Where did you go next?

A. I took a position then to work for a certain percentage with a man by the name of Aronheimer, on Richmond street, below Frankford road.

Adjourned to Tuesday August 18, 1875, at 10 a. m.

NEW YORK, *August* 18, 1875—10 a. m.

Met pursuant to adjournment. Present, counsel as before.

The cross-examination of JOHN ROWEN resumed by Mr. Barnum:

The witness requests permission to correct his testimony, and says: I stated yesterday that I came back from New Jersey in 1867, and I find that I didn't get back until the first part of 1868, and then I went on with my regular business. I also stated that I manufactured shawl straps, or bundle straps, as I call them, in 1867, which is incorrect. And also that, by referring to my little pass-book that is here, there is an entry made to Mr. Hyde, and I stated that he carried on business on Frankford road, near Laurel, which is true in one case; but there was another Mr. Hyde, that carried on a stationery and fancy goods business, on Ninth street, between Vine and Market somewheres, and that entry in the book might relate to him.

X Q. 155. Did you sell to both Hydes?

A. Yes, sir; certain kinds of goods I did.

X Q. 156. Which kinds did you sell to each?

A. I sold school-bags and carpet-bags to the one on Frankford road, I am certain, but whether I sold him the bundle straps, I cannot say positively, and if not to him, I did to the other; I sold the other man a general line, satchels, straps, &c.

X Q. 157. What do you mean by &c.?

A. It might be girls' school satchels, I suppose, that is all.

X Q. 158. Have you any recollection of selling bundle holders with brace to the parties named in Exhibits 15 and 16, except by reference to entries therein contained?

(Objected to as immaterial.)

A. No, sir; I have not.

X Q. 159. How long do you now say that you remained in New Jersey?

A. About two years.

X Q. 160. In the years 1864 and 1865, did you visit the trunk stores in Philadelphia, and offer bundle straps with brace for sale?

A. I did.

X Q. 161. Do you think you did, all of them?

(Objected to as immaterial, and because not calculated to draw the knowledge of witness as to facts.)

A. I couldn't say.

X Q. 162. Did you sell them to any of the trunk dealers of Philadelphia in 1864 or 1865?

(Same objection.)

234 Witness says, "I would like to ask a question, which is: I would like to know if shoe stores, selling a general line of trunks, could be called trunk dealers?"

(Counsel for complainant alters question to trunk makers.)

A. I can't say positively that I did. For one reason, if the parties referred to made trunks, that they would make those goods too at that time.

X Q. 163. Do you know any trunk makers who made those goods at that time?

A. I do by hearsay.

X Q. 164. Did you ever see any such goods, except those made by yourself at that time?

A. I did.

X Q. 165. Where?

A. I couldn't say positively where.

X Q. 166. To the best of your recollection, where?

A. I can't recollect any particular place where those goods were exposed for sale at that time. I did see them in Philadelphia. I saw them in the business part.

X Q. 167. Can you not locate them nearer than that?

A. I can by bounding the business part of Philadelphia. That's the best I can do.

X Q. 168. Describe the articles you saw?

A. I saw them made (not manufactured) with wood for a cross-bar and a handle on the top, and straps running through the loops on the ends. I couldn't say positively whether the leather constituting the handle was turned up or under to form the loops for the straps to run through. The loops were fastened on the bar by a nail or a rivet; I could not say positively which it was.

X Q. 169. How many of these did you see?

A. I couldn't give you the exact sum; it might be between 1 and 100.

X Q. 170. Did you see this or these in more than one place?

A. I think I did.

X Q. 171. How many places?

A. I couldn't say; it might be between two and five, probably more than five.

X Q. 172. What kind of places did you see them?

A. Stores. I saw them in shoe and trunk stores, I suppose.

X Q. 173. How did you come to see them?

A. By travelling around and going from store to store and looking at them, as any other man, or manufacturer, that made goods as I did, would do to get the different styles, &c.

X Q. 174. Were they exposed to view, or was your attention called to them by anybody?

A. Sometimes they were exposed to view, and at other times I might have went into a store and parties would show me other goods cheaper, and probably better than mine, and that is the way that I came to see them without my attention drawn to them particularly by any one.

X Q. 175. Do you recollect of any one calling your attention to this style of straps?

(Objected to because the witness has already given his general recollection and knowledge of the matter referred to, and counsel is requested not to protract the examination of this witness unnecessarily and vexatiously.)

A. I do not, at that time.

X Q. 176. Can you name any trunk dealers or manufacturers, except those mentioned in Exhibits 15 and 16, to whom you showed or offered bundle straps with brace in 1864 or 1865?

A. I cannot say positively that I did, for the reason that I supposed that they manufactured them themselves, as it was a common article. I mean by a common article that most any boy that could handle an awl and a hammer, and knowed how to make a wax-end could make one.

X Q. 177. Did you know the principal trunk-houses of Philadelphia at that time?

(Same objection and request as to X Q. 175.)

A. I did.

X Q. 178. State who they were.

A. George B. Bains, Benjamin Andrews, Robert McMullen, C. T. Kenney, Daniel Bisphan, John Unrah, and a number of others that I can't recollect just at present, but I suppose the majority of them know me.

(Question objected to as not cross examination.)

X Q. 179. Why do you so suppose?

(Same objection.)

A. Because I tried to sell them other classes of goods.

X Q. 180. Did you ever show or offer your bundle-straps with brace to these houses at that time?

(Same objection and as already answered.)

A. I cannot recollect those particular goods as offering to them men for sale at that time. I cannot recollect that I showed them to them.

X Q. 181. Have you any recollection on the subject?

(Same objection.)

A. Not particularly so, to trunk houses; I have no recollection to these men.

X Q. 182. What class of goods did you offer these houses?

(Objected to as not cross-examination.)

A. Generally school-bags. I don't recollect showing shawl-straps, or bundle-straps as I call them, for the reason that I only manufactured school-satchels, bundle-straps, baggage-straps, and carpet-bags for girls at that time for that class of men.

X Q. 183. Did not those houses manufacture school-satchels, bundle-straps, and carpet-bags?

(Objected to as not cross-examination, and as calling for hearsay with regard to bundle-straps.)

A. I couldn't say that they did.

X Q. 184. Did you see in any of those houses bundle-holders with brace at that time?

(Objected to as already answered.)

A. I can't recollect that I did.

X Q. 185. What kind of bundle-holders did you see there?

(Same objection.)

A. I said before that I couldn't state that I saw any in those places.

X Q. 186. On your return to Philadelphia in 1868 how soon did you make bundle-straps with the brace?

A. I might have made them two weeks after I did return; probably it might have been a little longer.

X Q. 187. What is your best recollection?

A. Well, I will say within one month.

X Q. 188. How many did you make in 1868?

236 A. I cannot tell the exact quantity; it might have been between one and twenty dozen.

X Q. 189. Is that the nearest you can come to it?

A. That is the nearest that I would like to say and tell the truth.

X Q. 190. To whom did you sell them in 1868?

A. Shoe-stores. I can't name any particular person for the reason that the book that I kept them days was lost in moving in 1870.

X Q. 191. Did you sell any to trunk houses in 1868?

A. I can't say that I did.

X Q. 192. How many bundle-straps did you make in 1869?

A. I can't say positively the number approximately; two dozen more or less.

X Q. 193. Is that the nearest you can come to it?

A. That is the nearest that I would like to say and tell the truth.

X Q. 194. To whom did you sell them in 1869?

A. Shoe and trunk stores; I mean those stores which kept shoes and trunks. I can't name any parties particularly.

X Q. 195. Did you sell any to trunk houses?

A. Can't say that I did.

X Q. 196. How many bundle-straps with brace did you make in 1870?

A. Three dozen more or less; that is as near as I can come to it and tell the truth.

X Q. 197. To whom were they sold?

A. Don't recollect the persons or any of them.

X Q. 198. Did you sell any to trunk houses?

A. Not as I recollect.

X Q. 199. How many did you make in 1871?

A. Four dozen more or less; that is as near as I can come to it and tell the truth.

X Q. 200. To whom did you sell them?

A. I don't know any names particularly.

X Q. 201. Did you sell any to trunk houses?

A. I can't recollect that I did.

X Q. 202. How many did you make in 1872 with brace?

A. Six dozen more or less; that is as near as I can come to it and tell the truth.

X Q. 203. To whom did you sell them?

A. I can't recollect the names of any persons.

X Q. 204. Did you sell any to trunk houses?

A. I can't recollect as I did.

X Q. 205. How many did you make in 1873?

A. Twenty dozen more or less; that is as near as I can come to it and tell the truth.

X Q. 206. To whom did you sell them?

A. I don't recollect the names of persons, nor do I recollect whether I sold them to trunk houses.

X Q. 207. How many did you make in 1874?

A. One hundred and fifty dozen more or less; these had the brace all through these years; that is as near as I can come to the number and tell the truth.

X Q. 208. To whom did you sell them, and did you sell any to trunk houses?

A. I sold them to shoe stores, notion houses, stationers, and trunk houses.

237 X Q. 209. During these years, 1868 to 1874 inclusive, what were you manufacturing besides bundle-holders?

A. Trunks, travelling-bags, school-satchels, book-straps, trunk boxes, valises, and the general line of goods which other manufacturers in the same business generally does make.

X Q. 210. When and where in Philadelphia have you had a store, or stores?

A. The first store that I had was at 449 Richmond street, Philadelphia, about 1864; the next store that I had was on Richmond street, below Shackamaxon street; that was either in 1867 or 1868. The third store I had was on Girard avenue; that was in the latter part of 1868, or the first part of 1869. The fourth store was at 405 North Third street, and 337 North Second street. I was carrying on both places at the same time. That was in 1872 and 1873, and I did not get the store on Second street until some time in 1873. In 1874, I was at 551 East York street.

X Q. 211. To whom in 1874 did you sell bundle-straps with brace?

A. McCadden and Smith, Second street, below Poplar, south side; Jacob Schafer, Second street, above New, north side; Rodel and Christ, Second street, below Callowhill; Mr. Martin, Eighth street, above Market; Hollowbush and Cary, Market street, between Fourth and Fifth streets. I consigned some to Bunting and Durborrow, auction house; Collard and Ford, auction house; Lippincott, Son and Company, auction house; all situated on Market street between Second and Third. There are some others, whose names I don't recollect. That is about all I can think of.

X Q. 212. During the years 1868 to 1873 inclusive, did you deal with the trunk houses in Philadelphia, and especially those you have named as existing in 1864 and 1865.

(Objected to as the witness has already and repeatedly testified on that point.)

A. I can't say that I dealt with them all that I named previously, as existing in 1864 and 1865, but with part of them. I suppose part of those that I mentioned in my previous statement, as not knowing the names.

X Q. 213, Did you in the years from 1868 to 1873, inclusive, show or offer your bundle-holders with brace to any of these trunk houses; and, if so, to whom?

(Objected to as immaterial.)

A. I have stated previously that I could not tell whether I ever showed bundle-straps to any trunk-houses in the years 1868, 1869, 1870, and 1871, but I think that I have showed samples of bundle-straps to trunk houses in the following years, probably in 1872. In 1873 I showed them to George B. Bains and Son, Watt and Kennedy, Benjamin Andrews, John Unruh, Thatcher and Company—I guess it is. These are all the principal manufacturers I think of.

X Q. 214. Why did you offer them to the trunk houses in 1873?

(Objected to as immaterial.)

A. The reason I cannot precisely state, but I think the reason was, that I manufactured in large quantities in that year, and could not find sale for them in notion houses, &c.

X Q. 215. Did you ever hear of Crouch's shawl-straps, or ever see one?

(Objected to as calling for hearsay, and as not cross-examination, and also because it does not appear from the foregoing testimony, or the questions, what is meant by Crouch's shawl-strap.)

238 A. I never heard of Crouch's shawl-strap as long as I have lived.

X Q. 216. Did you ever see a shawl-strap made by Crouch and Fitzgerald?

(Same objection, and because it does not appear that the witness could have personal knowledge of the doings of Crouch and Fitzgerald, or both.)

A. I do not know.

X Q. 217. Did you ever hear of either George Crouch, or Crouch and Fitzgerald?

(Same objection as to question 215.)

A. Never until very lately, during the last five months, I suppose.

X Q. 218. How did you hear of them?

(Same objection, and as indefinite.)

A. I heard of them by trying to make sales of bundle-straps, and parties said they did not like to handle them, or buy them, as they had been notified by certain parties in New York, that claimed to have a patent on them.

X Q. 219. Did this occur within the last five months?

(Same objection.)

A. I think it did.

X Q. 220. Name the parties who so stated to you.

(Same objection.)

A. Behm and Gerhardt, Laingfeldt and Sons, C. F. Rumpp, Mr. Martin, and others, whose names I can't recollect.

X Q. 221. Did you sell any of the parties, named in your last answer, any bundle-holders with brace, in the fall of 1874?

A. Yes, sir.

X Q. 222. Whom?

A. Behm and Gerhardt, and Mr. Martin.

X Q. 223. Did you not find during the years 1868 to 1873, inclusive, large quantities of bundle-holders with brace, in the hands of dealers in [illegible]delphia?

([illegible]jected to as immaterial.)

[illegible] have seen some in the hands of some dealers; I don't know what [illegible]ean by large quantities.

X Q 224. Did you not find them generally distributed among dealers, in those years?

(Same objection.)

A. I have seen some in the hands of some dealers.

X Q. 225. Question repeated.

(Same objection, and as already answered, and counsel is once more requested not to prot'act the examination of this witness unnecessarily, and informed that the defendant cheerfully admits that Crouch and Fitzgerald sold large quantities of shawl-straps, after the issue of the patent to Crouch.)

A. If you will call five or six parties, generally, I will say that I did.

X Q. 226. Do you swear that five or six parties constituted the number of persons in the business, where you found bundle-straps with the brace, in those years?

(Objected to as immaterial.)

A. I do not, because you asked me if I saw large quantities.

X Q. 227. Question repeated.

(Same objection, and as already answered.)

239 A. If you have no reference to large quantities, I will say that I saw them generally distributed.

X Q. 228. In what years within the time stated?

(Same objection.)

A. In 1872 and 1873; not generally distributed before.

X Q. 229. Did you ever inquire the makers of the boots the boys had on?
(Objected to as immaterial and not cross-examination.)
A. I never did, nor never had any occasion to.

R. Q. 230. Do the shoe dealers in Philadelphia generally sell the trunks also?
A. Generally speaking they do.

(Same objection.)
A. That answer is taken down correctly.

(Objected to as leading.)
whether this answer is correctly taken or not;

to be cross-examined, to which
A. That answer that I stated is correct. In

if not, in what respect?
A. I don't think that was the case; the

with the round handle, and the other with
think, at that

1866 you had a store in Richmond street;
and how long were you in it?
A. I

what you mean by "about 1870."
A.

Girard avenue in 1869 and not in 1870; is that it?
A. Yes, sir.

(Objected to as incompetent and incumbering the record.)
A. Four boys.

240 R. Q. 238. How many of those boys you worked in 1869 and 1870 resided in your premises at the time you were in Richmond?
(Same objection.)
A. One.
R. Q. 239. (And what had become of the rest?
(Same objection.)
A. I said three.

Recross:

R. X Q. 240. Did you have any employees in 1864 and 1865?

A. Yes, sir.

R. X Q. 241. Name them?

A. Frank Glenn, a boy, James Kite, a boy; that is about all that I recollect.

R. X Q. 242. Where are they now?

A. I don't know.

R. X Q. 243. When did you last know of their whereabouts, and where were they?

A. In Philadelphia; I don't know where they lived; I met them on the streets about four months ago. That's all I know about them.

R. X Q. 244. Did you have employees in 1868–'69 and '70, and if so, what are their names?

(Objected to as not recross.)

A. I had. Their names I can't think of just at present. I remember James McKennelly, Richard Walker and Harry Heller; that's about all I can think of at present.

R. X Q. 245. What did they work at when with you?

(Same objection.)

A. Generally on trunks.

R. X Q. 246. Did any of the employees you have named work on bundle-holders with brace, while with you?

(Same objection, as far as the question extends beyond 1865.)

A. I can't say that they did.

R. X Q. 247. Where are the parties last named now?

A. James McKennelly is at Crouch and Fitzgerald's as foreman, as I understand. I saw him there. Richard Walker is dead. Harry Heller lives somewhere in the 13th ward, in Philadelphia; he is not working at present, I know.

R. X Q. 248. Where did he work last, as far as you know?

A. I think at Thatcher's, on Ridge road, below Spring Garden street.

R. X Q. 249. What did the boys Kite and Glenn do while they were in your employ?

A. Kite worked on trunks with me, and Glenn stitched buckles on school satchels.

R. X Q. 250. When did McKennelly go with you, and how long did he remain with you?

A. I think in the latter end of 1869 or 1870; I won't be positive, and remained about 6 months, more or less, probably more.

Witness requests permission to correct his answer to X Q. 219, and, by consent of counsel, he corrects said answer as follows:

I had no store after leaving 449 Richmond street, until I came back from Jersey, and that was with George W. Guyer, at 1115 Pine 241 street, and after I left Pine street, the next store I had was in Richmond street, below Shackamaxon, and then the next store I had was on West Girard avenue.

JOHN BOWER.

Subscribed and sworn to before me this 18th day of August, 1875.

HERBERT C. WEBB (No. 4),
Notary Public, N. Y. County.

CHARLES F. RUHPP, a witness called on behalf of the defendant, being duly sworn, testified as follows:

Q. 1. What is your age, residence, and occupation?

A. I am 47 years old; [illegible] Callowhill street, Philadelphia; manufacturer of fancy leather goods, at 114, 116, and 118 North Fourth street.

Q. 2. Of what country are you a native?

A. Germany.

Q. 3. When did you come to the United States?

A. In 1850.

Q. 4. How long have you been established in business in Philadelphia?

A. 23 years this month.

Counsel, showing witness the bundle-holder, which is marked Exhibit Rampp, asks him:

Q. 5. Do you know when, where, by whom, and for what purpose this article was made? And, if so, state what you know about it.

A. This article was made before December, [illegible], by my foreman, Mr. Metzger, to be used to carry [illegible] by my salesman, Mr. C. B. Turner. It was the second [illegible] and some purposes; the first one, having [illegible] handle, and we made him this one (Exhibit [illegible]

Q. 6. Counsel showing witness sample [illegible] is that?

A. This was the first one spoken of, which was [illegible] account of the broad handle, and was used as a sample since December, 1866.

Offered in evidence, and marked Exhibit No. 17, August 14, 1875, R. C. W., notary.

Q. 7. When was Exhibit 17 made and how long was it used by Mr. Turner as a bundle-holder?

A. For one trip only. It was made in the fall of 1866.

Q. 8. What is there in Exhibit Rampp to make the lower [illegible] stiff?

A. I think it's hickory wood. We took wood or lose, just as the substance suited us for the purpose.

Q. 9. For what purpose?

A. To carry packages, [illegible], shawls, &c. This one was made to carry a large bundle of samples; that is why it was made so heavy.

Q. 10. State whether or not in your business you have made bundle-holders, sold the same, and exposed them for sale.

A. I have.

Q. 11. When first; until when; and describe their construction?

A. The book [illegible] I only know [illegible] sake of the [illegible]

[illegible] a [illegible]

243 [illegible]

[illegible]

not [illegible]

[illegible]

[illegible]

[

adopted a certain brass fastening used on satchel handles, such as shown in this one, which is my own make, and also illustrates the first ones made in quantities, with the exception of having then two straps only.

The shawl-strap last referred to is offered in evidence and marked Exhibit 19, August 18th, 1875, E. C. W., notary.

Which two-strap ones I have made and sold one year and a half, sure, to two years, or more, before we adopted a third strap to the same bar.

The further examination of this witness adjourned to Thursday, August 19th, 1875, at 10½ a. m.

NEW YORK, *August* 19, 1875.

Met pursuant to adjournment. Present, counsel as before.

The direct examination of CHARLES F. RUPPT resumed by Mr. BRIESEN.

Q. 12. When did you adopt the brass fastenings shown at the end of the handle of Exhibit 19 on rigid bar shawl-straps?

A. If it was not in the latter part of 1866, I am sure it was in the beginning of 1867.

Q. 13. How many years before that did you make rigid bar shawl-straps with the handle lapped around the ring, as in Exhibit 18?

A. I think I am safe to say one year.

Q. 14. When last were you in Germany?

A. In the summer of 1868.

Q. 15. Relate what, if anything, occurred to you with reference to shawl-straps while in Germany in 1868?

(Objected to as immaterial and incompetent.)

A. In the first part of July I purchased a shawl-strap there, in Stuttgart, not having one with me, for which the man charged 1 florin. On account of the price, I had quite an argument with the storekeeper; he also was the manufacturer. By the time——

(Any conversation between witness and storekeeper objected to.)

I came home, I liked the strap so well that I made some like it, in first part of September, 1868, which were then the first ones without the stiff bar.

Q. 16. How long before going to Germany, in 1868, had you made and sold rigid-bar shawl-straps?

A. Fully two years.

Q. 17. When did you leave for Germany in 1868?

243 A. The 15th of May.

Q. 18. You have stated that Exhibit 18 was made as a sample to take orders by; where was it kept, and what kind of orders?

A. It always was kept in the retail store in a glass case; the orders were for single jobs, where customers brought the needle-work for the straps, and this one was made for the purpose of exhibiting the style; and instead of needle-work, I had velvet strips put in, nicely finished off. The handle also was finished off in an ornamental shape, with this ornament, or lappet. On this one, Exhibit 18, these lappets were cut off by me, for the purpose of showing the style of straps which we first made. By needle-work, I mean a piece of embroidery which we worked into the straps.

Q. 19. You say your books don't show entries prior to 1868. Have you a book here, which shows such entries, and, if so, will you produce it, and state what it contains, by whom it was kept, and where?

(Objected to as incompetent, as far as [illegible])

A. [illegible] and 118 North Ninth street, Philadelphia, [illegible]

The book produced by the witness is [illegible] suit's counsel, and marked Exhibit Knapp Account Book, [illegible] 1875, R. C. W., notary.

(The admission of this book in evidence objected to by [illegible] counsel, as incompetent.)

Counsel for defendant calls on plaintiff to produce the letters which he or his firm have received from this witness during the [illegible] counsel proposes to refer to them on the direct [illegible] notice is given that unless these letters are produced, and especially one bearing date September [illegible] will be introduced [illegible] by [illegible]

To which complainant's counsel responds that such notice is unreasonable and irregular.

Q. 20. Does the book, Exhibit Knapp Account Book, contain entries of the sale of shawl straps by your house, and if so, will you please point out to the officer the several entries, showing such sales, so that they may be copied into the record?

(Objected to as incompetent.)

A. Yes, sir, it does contain such entries; they are as follows:

First.

Page 148, Phil., Nov. 9th, 1866, Thomas W. Penn, sent care Rodgers, Springfield, O., ½ doz. shawl-straps @ $9. $4.50.

Second.

Page 222, Phil., Jan 11th, 1867,

Miller & Bahmer,

1 shawl-strap, $0.75.

Third.

Page 224, Phil., Jan. 15th, 1867,

F. D. Sower,

½ doz. shawl-straps, $9. $1.50.

244 Fourth.

Page 413, Phil., Sept. 11th, 1867,

R. F. Beatty & Co., Allegheny City, Pa.,

½ doz. shawl-straps, $9. $1.50.

Fifth.

Page 432, Phil., Sept. 23d, 1867,

Amberbrook and Bro.,

½ doz. shawl-straps, $8.50. $4.25.

Sixth.

Page 436, Phil., Sept. 30th, 1867,

John Bower,

½ doz. shawl-straps, $8.50. $1.41.

Seventh.

Page 462, Phil., Nov. 7th, 1867,

Donnelly & Smith, Bellaire, Trenton, N. J.,

½ doz. shawl-straps, $8.50. $1.12.

Eighth.

Page 466, Phil., Nov. 8, 1867,

[illegible]

½ doz. [illegible] $4.25.

Ninth.
Page 487, Phil., Nov. 8th, 1867,
Otto Sieus,
½ doz. shawl-straps, $8.50. $2.13.
Tenth.
Page 490, Phil., Nov. 12th, 1867,
T. Diehl, Howards,
½ doz. shawl-straps, $8.50. $2.13.
Eleventh.
Page 503, Phil., Nov. 21st, 1867,
J. D. Wallace,
½ doz. shawl-straps, $8.50. $2.13.
Twelfth.
Page 516, Phil., Dec. 14th, 1867,
Conrad Bros.
½ doz. shawl-straps, $8.50. $2.13.

Q. 21. Where is A. B. Andrews, your bookkeeper?

A. He is in business for himself in 6th street, below Arch street, Philadelphia.

Q. 22. What kind of shawl-straps are those of which sales are entered in this book?

A. They were all with stiff bars, in styles similar to Exhibits 18 and 19, only of different leather.

Q. 23. Does the book Exhibit Rumpp Account Book contain entries of all sales of rigid bar shawl-straps from your business during the time covered by the book?

A. No; only such sales to customers who had a book-account with me.

Q. 24. Were there other sales, then, during that time?

A. Yes, but they were cash sales, which we enter in small books only, and have not preserved them.

Q. 25. What kind of shawl-straps were those which you sold as "cash sales" in 1866 and 1867?

A. They must have been the same kind, as I made one style only at first.

245 Q. 26. When did you commence to make two styles, and what was the second style?

A. I can't state the time exactly, the second style was one with three straps, like Exhibit 19.

Q. 27. Then your reference to Exhibit 19 in answer to question 22 was made with regard to the style of bar and handle only, or was it with regard to the number of straps?

A. It was in regard to the style of leather only; mean the style of fastening the handle to the brass ring.

Q. 28. Do you know whether you made shawl-straps with three straps before you went to Germany in 1868?

A. I couldn't say so, positively, but I have made them in that year.

Q. 29. Have you had any dealings lately with George Crouch, the complainant, or with his firm of Crouch and Fitzgerald? And, if so, give a history thereof from beginning to end.

12 m. adjourned to 1 p. m. for recess.

A. The first knowledge I received of their existence was by their salesman, Stewart Brown, who offered their make of shawl-straps to me, stating that they had a patent on it. This was about in the winter of 1868 to 1869. This Mr. Brown's remark about the patent caused a hearty

laugh and ridicule of all my relations and friends, and on all sides [illegible] Mr. Howard [illegible] strongly, and [illegible] so on a condition about [illegible] then, I had no money to do with them, [illegible] until they established me by [illegible] Brown—to stop manufacturing and [illegible] on their patent. This was in the year 1874; I [illegible] was at first put out at the young manhood [illegible] so much so, that I told him that if it wasn't for [illegible] would show him the door. I told them [illegible] this he told me that I shouldn't be so [illegible] several [illegible] royalty for infringing. I answered up all [illegible] and [illegible], which I think was a total of [illegible] so charging them as claiming 20 cents a [illegible] him an order, and stating I will not make [illegible] theirs only, as I was at that time doing very [illegible] way, and fearing the heavy expenses of a lawsuit, [illegible] by——

("Thought they would" objected to)

——getting me on their customer, drop the matter entirely; instead of that, they sent me a bill of charges for infringement, [illegible] of which I told them in a letter, of which this is a [illegible] that I gave all legal right to the article anyway.

The [illegible] copy of the letter produced by witness in [illegible] to, evidence by defendant's counsel, and marked Exhibit 19, Aug. 26th, 1875, R. C. W., notary.

(Objected to as incompetent.)

The result of my examining [illegible] showed that I imported about [illegible] as were manufactured by me, for I could import [illegible] them I could manufacture. They threatened me with a lawsuit, and finally sued me for infringement on their patent.

246 *Defendant's Exhibit* 20, *August* 26th, 1875.—*R. C. W., Notary.*

Specification 24, 4.

Messrs. CROUCH and FITZGERALD:

GENTLEMEN: Since the visit of your Mr. Brown, I have [illegible] among my records, and find that I am [illegible] priority in the manufacture of "right [illegible]

I have ascertained that I have [illegible] to your date of patent, September [illegible] sion a stamp, until two (2) years prior [illegible] of your claim; the machines, who used it [illegible] who used it, and several other persons [illegible] individually and personally [illegible] of its use and manufacture. In order to [illegible] have taken eminent legal advice on the [illegible] printed testimony in your suit vs. [illegible] possession of such information [illegible] have [illegible] all [illegible] myself liable for any [illegible]

thinking I have all possible right and law upon my side, but wishing to [illegible] all expense which you might incur, I will make the following [illegible]: That I will still search, my dear sheaf straps, buy all I [illegible] and make you, and endeavor to create a demand, and also, to [illegible] your sale, will rest on the imported case now in custom-house to be attended by you.

Hoping to be favored with an early reply, I am yours,

C. F. RUMPP.

A.

I am in need of straps, especially the No. 2 Russia; if you cannot send the whole order, send the No. 2 at once.

Q. 29. Is this the writ of subpœna that was served on you in the suit that was brought against you by Crouch, as you have testified?

A. Yes, sir.

The same is marked for identification Subpœna, Crouch. The said subpœna bears date May 30th, 1875.

Q. 30. How was the original letter, of which Exhibit 20 is a copy, forwarded to its address?

A. By mail, as usual.

Cross-examined:

X Q. 31. At what port did you arrive in 1849?

A. In New York.

X Q. 32. How long did you stay at New York?

A. From dusk until the next noon at 11 or 12 o'clock.

X Q. 33. Where did you then go?

A. To Philadelphia, my destination.

X Q. 34. By what vessel did you arrive?

A. By a sailing vessel, and I believe the name to be Nova Scotia. I [illegible] there, that not being able to understand any English, the [illegible] was unpronounceable. I can give you the date and hour when I arrived.

X Q. 35. From what port did you sail?

A. From London.

X Q. 37. From what place did you originally start from for America?

247 A. From my home, a small town, called Nuertingen, in the kingdom of Wurtemberg.

X Q. 38. Where did you go to in Philadelphia?

A. To my sister's, Mrs. Shill; she was living then in Front street, between Green and Coates streets.

X Q. 39. How old were you then?

A. Twenty years, several months, and a few days.

X Q. 40. Did you engage in business in Philadelphia; and if so, when first?

A. I [illegible] about five weeks; then I went to F. H. Smith, then situated in Chestnut street, above Second, and worked there steadily, until 1855, [illegible] June, when in August of the same year I began for myself, in a small way.

X Q. 41. Where?

A. At my present [illegible], in Arch street, above Second street.

X Q. 42. [illegible]

A. In the first ten months I moved to two more boarding-houses,

when in the [illegible] part of the week [illegible] story of a [illegible] Then [illegible] 39 North Fourth [illegible]

X Q. 44. When did you go to your present [illegible]

A. I stood in that old store, No. 39 North [illegible] years, when [illegible] down and I then moved to my present [illegible] and have been there ever since.

X Q. 45. What kind of goods did you make at North [illegible]?

A. All and everything belonging to [illegible] pocket-books, portemonnaies, &c.

X Q. 46. Did you make shovel-straps while there, 39 North Fourth street?

A. No, sir.

X Q. 47. When did you first make a shovel-strap?

A. I couldn't state the date.

X Q. 48. About when?

A. I could not say, but do say that I always have made, and still make all articles in the leather line that is called for.

X Q. 49. Do you recollect the first shovel-strap you made?

A. No, sir.

X Q. 50. When did you make the first shovel-strap you do recollect of?

A. I have made them before I have made the one [illegible] for my own [illegible] as shown in Exhibits 17 and Exhibit [illegible].

X Q. 51. Question repeated.

(Objected to as [illegible] unanswered.)

A. This is the one (Exhibit 17), as I have said before, [illegible] that is not the first one. I don't recollect when I have made [illegible]

X Q. 52. Have you any recollection of the circumstances [illegible] you made them before that one?

A. I have not.

X Q. 53. Do you recollect any particular instance, in which you made a shovel-strap prior to Exhibits 17?

(Objected to as [illegible] I do not.

X Q. 54. How do you know that you made them prior to Exhibit 17?

A. Because, having a retail store, and all sorts of calls for different work, and having the facilities for making such work, I feel sure that we have made many before, from single [illegible]

X Q. 55. Is that the best answer you can give?

A. It seems to me that this very one was demanded by my customers, after seeing one made for a customer.

X Q. 56. Is that to your knowledge or a presumption?

A. A presumption.

X Q. 57. Do you recollect how many [illegible] you have made?

A. I do not, for a great many articles are made to my [illegible] in a single way, which I never can.

X Q. 58. Do you recollect the circumstances under which Exhibit 17 was made?

A. As stated before, for the use of my salesman.

X Q. 59. Did you make it?

A. Yes, sir.

X Q. 60. I mean with your own [illegible]

A. I never at [illegible] myself, but having the time to [illegible] I did not make this strap.

X Q. 61. Who did make it?
A. My foreman, Philip Metzger.
X Q. 62. Did you personally give the direction for its manufacture?
A. I can't say.
X Q. 63. When did you first see it?
A. When it was made.
X Q. 64. Did you know anything about it until it was made?
(Objected to as immaterial.)
A. Yes, sir.
X Q. 65. What did you know about it?
(Same objection.)
A. That my salesman demanded it and, after I saw it, I censured my foreman in having made such a clumsy affair, entirely unlike our general work.
(The latter part of the answer objected to by complainant's counsel, as not responsive.)
X Q. 66. Do you recollect the fact that the salesman did demand it?
A. I do.
X Q. 67. What salesman was it?
(Objected to as already answered.)
A. C. B. Turner.
X Q. 68. What did he say?
A. I don't know.
X Q. 69. Do you know who gave the direction as to how it should be made?
A. Either myself or C. B. Turner; that is the best I can say.
X Q. 70. When was this made?
A. In the fall of 1896.
X Q. 71. How do you fix that date?
A. In the same year, in want of store room, I fitted up the cellar underneath the retail store, for a wholesale department, which closed with a spring door without any fastening, and, after Mr. C. B. Turner was out with this strap, a short time, he complained of getting his hands blistered by the use of it. We then nailed this to that very door, as a handle to pull the door open by, and made him the bar and handle
249 like Exhibit Rempp. The straps now in Exhibit Rempp were taken from Exhibit 17, and this very article he used before Christmas, 1896, to carry his samples in.
X Q. 72. How do you fix the time you so fitted up that cellar?
A. By the bills and receipts where I paid for it.
X Q. 73. Have you the bills and receipts with you?
A. No, sir.
X Q. 74. Where are they?
(Objected to as immaterial.)
A. I have an account of them in my cash book; bills, after a certain number of years, are destroyed.
X Q. 75. When were these bills and receipts destroyed?
(Same objection.)
A. I don't say they are destroyed; they may be about, but I surely have the account of them paid.
X Q. 76. When did you see them last?
A. I don't remember, but have seen the account of them to fix the date and year, last year, anyway.
X Q. 77. Have you that book here?
A. No, sir.

X Q. 78. Do you recollect what [illegible] were given by either you or Turner to the foreman, about making Exhibit 2?
(Objected to as immaterial.)
A. I do not.
X Q. 79. What fault other than [illegible] did you find with Exhibit 2?
A. Its too heavy appearance, that's all.
X Q. 80. Did you personally give the directions to the foreman about making Exhibit Eleven?
A. I don't remember, but it is a matter of course thereof. If [illegible] with this article, because it is too heavy, the [illegible]
X Q. 81. Was Exhibit Eleven made by your orders?
A. Either mine, or C. R. Turner's.
X Q. 82. Is that the best of your recollection?
A. I am sure of it.
X Q. 83. Are you sure of it, because you have a positive recollection of it?
A. Such is the transaction and working of my establishment that I am positive of it.
X Q. 84. Was it, Exhibit Eleven, made in accordance with your wishes as expressed by you or Turner?
(Objected to as immaterial.)
A. Yes, sir; for it answered its purpose.
X Q. 85. Did you ever make shovel stays without the right cross-bar; if so, when?
(Objected to as not pertinent to any issue in this cause.)
A. As a selling article not before I [illegible]
X Q. 86. What do you mean by a selling article?
A. By a selling article, I mean anything made for [illegible] by a sample.
X Q. 87. Did you ever deal in such stays; and if so, when?
(Objected to as just answered.)
A. Yes, sir; I imported a good many from England, and have bought quantities of a common article from Philadelphia [illegible] I [illegible] last the time, or call off, there was a demand for them.
250 X Q. 88. As early as 1838?
A. I couldn't recollect.
X Q. 89. What is your best recollection as to how many yokes you imported, bought and sold them?
A. I should say about seven to eight years ago.
X Q. 90. Did you not find in Exhibit 2 [illegible] to your help in Germany?
A. I have not, as well as I recollect.
X Q. 91. Were not such stays in demand long prior to 1838?
(Objected to as immaterial, and not within the issues in this cause.)
A. I couldn't say.
X Q. 92. When did you first see a shovel-stay without a right cross-bar?
(Objected to as already answered.)
A. Previous to me, when in Germany, in the summer of 1837, when I purchased one.
X Q. 93. How long have you been in this business?
(Objected to as immaterial.)
A. Twenty-five years—in the heavy leather business [illegible]
X Q. 94. What kind of goods did you [illegible]
A. In all the styles [illegible] at this time. I [illegible] the

instance, methods, as far back as July, 1856, and soon after that, made them myself.

X Q. 95. How soon after you made Exhibit Rampp, did you make any more straps with rigid cross-bars?

A. Myself, probably I made them before even, I couldn't fix the date, but I made them whenever there was a demand for them; I made them in the year 1856, anyway.

X Q. 96. Have you any positive recollection about it?

A. Yes, sir.

X Q. 97. Describe from that recollection how they were made?

A. They were made mostly of hoop-iron, off my European boxes, and of leather; wood whenever the hoop-iron was not strong enough. The hoop-iron, or wood, was laid in between two pieces of leather, pasted and stitched together, loops made for the straps to go through and the handle either riveted or riveted on the bar.

X Q. 98. How were the loops made?

A. By either bending the hoop-iron around, to form a loop; or riveted, or stitched a loop on top of the bar.

X Q. 99. How were the loops formed that were riveted or stitched on the bar.

A. There was no forming about it. It consists of a piece of leather, fastened on at each end, wide enough apart to run a strap through.

X Q. 100. How were they stitched on?

A. Through the leather and wood altogether.

X Q. 101. Were they stitched on the straps having an iron bar?

A. No, they were riveted on only.

X Q. 102. Were the pieces of leather to form the loops, put on flat or doubled?

(Objected to as immaterial.)

A. I don't know what you mean, sir.

X Q. 103. State in what shape leather pieces forming the loops were, and their size.

(Same objection.)

A. They were not shaped, except raised over a piece of leather, or stick, the size of the strap, which was either a half inch, ¾ or 1, as they were fastened.

251 X Q. 104. Were they then stitched or riveted on each side of this raised portion?

A. Yes, sir.

X Q. 105. Which did you make first, the iron or wooden cross-bar?

A. I couldn't say; I made of wood whenever iron wasn't heavy enough, and I remember that on some occasions we put iron and wood together.

X Q. 106. How many did you make with wood in 1856?

(Objected to as immaterial, and as the witness has already given his best recollection on these points. His statement that he does not remember how many light bar straps he made in 1856 renders the above question, and others of the same spirit unnecessary, unless the same are calculated to harass and annoy and to consume what little time is left to the defence to bring in its proofs.)

A. I can't say.

X Q. 107. How many did you make of iron in 1856?

A. I couldn't say.

X Q. 108. How many did you make of iron and wood together in 1856?

(Same objection.)

X Q. 121. Were the bills of goods therein charged entered first on that book, without being recorded anywhere else?

A. They are recorded nowheres except when the sales are made; of such is either on a slip of paper or in a small memorandum-book.

The further examination of this witness adjourned to Friday, Aug. 20th, 1875, at 10½ a. m.

NEW YORK, *August* 20*th*, 1875.

Met pursuant to adjournment. Present, counsel as before.

The cross-examination of CHARLES F. RUMPF resumed by Mr. RAEBURN:

X Q. 122. Did you make any of the entries read by you from Exhibit Rumpp Account-Book?

A. I didn't make any, that I remember.

X Q. 123. Did you personally sell any of the items read by you?

A. I couldn't remember.

X Q. 124. What is your best recollection about it?

A. That we made them and sold them.

X Q. 125. Refresh your memory by looking at the entries referred to, and say whether or not you personally sold any of them.

Witness looks at entries and then says:

A. I can't remember by looking at them.

X Q. 126. Have you any recollection of any particular one of these entries, or of the transactions so recorded?

(Objected to as immaterial and as already answered.)

A. I have none.

X Q. 127. What was and is the place of business of the parties named in these entries?

A. First. Thomas W. Bean. I do not know Mr. Thomas W. Bean; the most part of my customers I do not know, nor do I call to
253 them direct generally; sometimes I do sell. I do not know his former or present place of business.

Second. Miller, Belmar; I do do not know them, nor their then or present place of business.

Third. F. D. Sower; I know him; he keeps a book and stationery store in Norristown, Pennsylvania, and did then.

Fourth. R. F. Beatty & Co.; I do not know them, nor their then or present place of business.

Fifth. Ancheubach & Brother; I don't know them nor their then or present place of business.

Sixth. John Bower; I do not know him nor his then or present place of business. There are but two others in the list that I do know, one of whom is Otto Sheer, who is a bookbinder, and keeps a stationery store in Williamsport, Pa., then and now; the other is Conrad Bro's, who keeps a [illegible] them in Chestnut street, Philadelphia; in Chestnut street, near Third street now; I couldn't say then.

X Q. 128. Give the names of your salesmen from 1869 to 1874, inclusive.

A. C. B. Turner, William H. Davis, Albert Gumpper, William Vogel, Gustavus Bertz, Fred Miller, and two ladies and a number of boys.

X Q. 129. Where are the parties you have named now?

A. Turner and Davis are connected with my former bookkeeper, Anderson, carrying on business for themselves at Philadelphia; Vogel died, Bertz is connected with Mr. Joseph Harris, of the firm of Harris

& Davis, Commons' attorney; Oliver Parrish, Morrison's attorney; Hubbard, Cooper and Miller, not with him at this time.

X Q. 120. Which did Anderson, Turner and Davis leave first?

A. Last first, Monday, 1878.

X Q. 121. Name the employees in your employ from 1876 to 1878, inclusive, who are not now in your employ?

A. There is very few, if any; one's name is Emanuel Hosier; another is Kessler; there may be two or three more, where I don't [illegible] of; two dead—Fred. Linke and Him; one [illegible]

X Q. 122. Where can these named be found?

A. I couldn't say; Kessler is living in [illegible] Kessler lives also. There is one other name that I now think of who [illegible] for me—Beaff; he went from my place to River Rouge and [illegible] there for several years. I do not know where he is now.

X Q. 123. Where has Exhibit 18 been since it was made?

A. In the safe at the [illegible]

X Q. 124. Describe the parts you cut off.

(Objected to as already answered.)

A. Projecting lengths [illegible] with a curved outline, [illegible] at the most, 4 inch from the clinched edge which is across the [illegible]; about 6 inches in length.

X Q. 125. What did you cut them off?

A. A vest or an apron, when I removed it from the [illegible]

X Q. 126. When did you make [illegible]

A. I couldn't state; [illegible] straps. I [illegible] them we made the [illegible] and we made [illegible] with the heading like Exhibit 18. What I mean is [illegible] Exhibit 18, being cut, with an Exhibit 19. It is [illegible] with an the right of fastening to the straps.

254 X Q. 127. Now, when was Exhibit 19 made, as near as you can remember?

(Objected to as immaterial, and as already fully answered, where the witness says, "I couldn't state.")

A. I can't say, but I have had it in use nearly the last six years—I mean personally and my family, and have carried a [illegible] heavy articles in it.

X Q. 128. Have you sold shawl straps with the eight cents [illegible] since 1876?

A. Undoubtedly.

X Q. 129. Give the numbers you have sold in each year, [illegible] since.

(The same objection as to cross-question 126 and [illegible] at the hearing of this cause [illegible] with the [illegible] United [illegible] to pay all the costs which [illegible] ble and vexatious prolongation of the [illegible]

A. I can't state.

X Q. 130. Do your books show the number?

A. To some extent.

X Q. 131. Do they show the number made and [illegible]?

(Objected to as immaterial, as the [illegible] 1876.)

A. The [illegible] exact; the [illegible]

X Q. 132. Will you produce the books showing such facts?

(Objected to as immaterial, and as calculated to deprive the witness of the books, which he now actually uses in his business, and consequently intended to vex witness and annoy him, and the witness is hereby instructed by defendant's counsel that he may, if he chooses, refuse to answer the last question, as he is here to testify as to his knowledge of facts, and not to make promises.)

A. I couldn't do it.

X Q. 143. Why?

(Same objection.)

A. Well, I haven't got the little pass-books, where I entered the work as given out, preserved. The book where the importations are entered I constantly use.

X Q. 144. Can you give the names of any parties to whom you sold straps with the rigid cross-bar from 1867 to 1869, inclusive?

A. I could not.

X Q. 145. In what year did you first import shawl straps with the rigid cross-bar?

A. I couldn't say, but my book will show.

X Q. 146. What is your best recollection about it?

(Objected to as immaterial, and already answered.)

A. I should say it is five or six years ago or more.

X Q. 147. What sizes of shawl straps with the rigid bar did you make for sale from 1869 to 1869?

A. Only one size, like Exhibits 18 and 19.

X Q. 148. Read your answer to Q. 29, and state whether you have thereto duly signed all the agreements between you and George Crouch, Crouch and Bro., and, as their representatives.

(Objected to as impertinent.) The witness reads his answer to Q. 29, and says:

A. Yes, sir.

X Q. 149. When did you receive the circular you refer to in that answer?

A. I couldn't state.

X Q. 150. When, to the best of your recollection?

A. I couldn't state, for I treated the matter very slight. I didn't pay any attention to it at all.

X Q. 151. Was it in the spring or summer of 1874?

A. I couldn't say.

X Q. 152. After the receipt of that circular, when did any communication or any personal interview next take place between you and Crouch, and Crouch and Brother, or their representatives?

A. I don't know. I only know it was some time last year in 1874.

X Q. 153. What was that communication and interview, and who from or with?

A. [illegible] about it in this answer to question 29.

X Q. 154. Was the visit of their salesman the first communication or interview you had with Crouch, or Crouch and Brother, after you received the circular?

(Objected to as calculated to mislead, [illegible] stated [illegible] salesman.)

A. [illegible]

[redacted]

Dock. 67—28

A. When I said bill of charges for infringement I meant the bill which I received for infringing. We received it, and I couldn't say whether I have it yet.

X Q. 167. When did you receive it?

A. During the time of this correspondence.

X Q. 168. What was the amount charged in that bill?

A. I don't know.

Redirect:

R. Q. 169. Have the officer read the questions and answers 39 and 51, and state which stoops you meant by "others," those made before or after Exhibit 17.

A. I meant those which I made before the one Exhibit 17.

R. Q. 171. What did you understand by the word "presumption" in question 39?

A. Supposition.

R. Q. 172. In answer 68 you say that you don't know what Mr. Turner said, when demanding the manufacture of Exhibit 17; do you mean that you don't know the exact words he said, or what?

A. I meant to say that I do know that he demanded, or asked for a suitable article for the purpose of carrying conveniently a travelling box containing samples, and as we had made that similar purpose similar articles this one, Exhibit 17, was made accordingly.

R. Q. 173. What is a travelling box?

A. A case, either large or small, where samples for selling purposes are carried.

R. Q. 174. In answer 70, you say that you do not recollect what instructions were given by you or Turner to the foreman about making Exhibit 17. What do you recollect with reference to such instructions?

A. The foreman, being an expert in his line, does, in a great many cases, require no instructions at all, beyond explaining to him what is wanted.

R. Q. 175. In what direction do you mean that the handle of Exhibit 19 is flexible, in contradistinction to the handle of Exhibit 18?

A. The stalk.

R. Q. 176. Read question and answer 100, and state whether the stitching [illegible] through the wood, and, if so, how the wood was prepared for such stitching.

A. The wood, being in all cases no thicker than from ⅛ to ¼ of an inch, [illegible] and laid between two heavy leather strips, a slit [illegible] through it for needle and thread. We made [illegible] on the stitching on, with help and [illegible]

R. Q. 177. Refer to answer and X Q. 163, and state what you understood [illegible] question. I spoke the truth or a lie.

R. Q. 178. What would about been your answer to that question if the wood [illegible]

(Objected to as [illegible] and as leading.)

A. Yes, [illegible] I have [illegible] would have been my answer.

R. Q. 179. [illegible] you do not know to whom you sold right [illegible] you the [illegible]

A. [illegible] Bond, Mr. Cary, [illegible] my time to exactly correspond with the size of the factory, having at present, and having had for

[redacted]

[illegible]

Q. 48. Do I understand you to say that you would rely upon [illegible]

A. [illegible]

Q. 49. In your answer to interrogatory 41 you say that the account [illegible]

A. [illegible]

Q. 50. Were there any substantial differences between the completed [illegible]

A. [illegible]

Q. 51. Who caused the delay?

A. [illegible]

Q. 52. Were you present when the [illegible] declared or not, and who were [illegible]

A. [illegible]

[illegible] No. 26, August 26, [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

The applicant further calls as a witness BENJAMIN HARRISON, who, being duly sworn, says:

I am twenty years of age, and reside in Paterson, New Jersey. I have known Mr. Watson for five years or more.

Witness shown Exhibit B.

I first saw this exhibit in May, 1865, at Mr. Watson's house, 261 near Paterson. He then showed it to Mr. Martin (the last witness), and Mr. Joseph Dean, in my presence, and explained to us that it was a design for a clamp to hold books.

B. HARRISON.

Sworn to before me this 21st day of September, 1867.

[L. S.] JAMES BETTS METCALF,
U. S. Commissioner, So. Dist. of N. Y.

(5.)

The applicant further calls as a witness JOSEPH DEAN, who, being duly sworn, says:

I am forty-six years of age, and reside in Paterson, New Jersey; I am a mechanic; I have known Mr. Watson, the applicant herein, for some nineteen years.

Witness shown Exhibit B.

I first saw this exhibit in May, 1865, at Mr. Watson's house, near Paterson, and he then explained to me the object of the invention, as testified to by the last witness.

JOSEPH DEAN.

Sworn to before me this 21st day of Sept., 1867.

[L. S.] JAMES BETTS METCALF,
U. S. Commissioner, So. Dist. of N. Y.

(5.)

I hereby certify that the foregoing depositions were taken, subscribed and sworn to before me, in accordance with law.

New York, Sept. 21st, 1867.

JAMES BETTS METCALF,
U. S. Commissioner, So. Dist. of N. Y.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE,
Washington City, D. C., August 3rd, 1867.

Sir: You are hereby notified that your application for a patent for a clamp for [illegible] filed in this office [illegible], has been adjudged to interfere with the [illegible] Charles W. Sherwood, by Attorney L. L. Bond, Chicago, Ill.; S. C. Batchelor, by Attorney E. B. Bowles, 403 [illegible], Washington, D. C.; [illegible], by Attorney [illegible], Washington, D. C.

A hearing will be granted to the parties on the 25th Monday in September next.

[illegible] shall be closed on the Monday preceding the day of hearing, and copies of [illegible] and arguments [illegible] the Patent Office [illegible] hearing, accompanied by an affidavit

of the evidence which may [illegible]

[illegible]

W. R. Wheeler,

Care of Brown, Combs & Co., 120 Broadway, New York.

[S. H. Stuart, Sidney H. Stuart, Jr., Office of S. H. Stuart, 32 Chambers street.]

You are hereby notified that the [illegible] on, in the matter of the [illegible] and for ordering the [illegible] James Butts Kidwell, esq., [illegible] Spencer, new Herald Building, [illegible] the city of New York, on the [illegible] noon of that day.

Yours,

SIDNEY H. STUART, JR.,

Attorney for W. R. Wheeler.

To CALVIN W. SHERWOOD,

Attorney L. L. Bond, Chicago, Illinois.

T. C. [illegible],

Attorney E. B. Beebe, 363 Broadway, N. Y.

BARTON [illegible],

Room [illegible], Washington, D. C.

STATE OF NEW YORK,

City and County of New York, ss:

John Tobin, of said city, being duly sworn, says that on the [illegible] of September, 1887, he served a copy of the [illegible] Beebe, [illegible] City, [illegible] ber, [illegible] of the [illegible] Calvin W. Sherwood, [illegible] Bond, his attorneys, at Chicago, Ill., and to Barton [illegible] & Co., his attorneys, at Washington, District of Columbia, [illegible] the postage thereon.

Sworn to before me this 31st day of [illegible]

[L. S.]

U. S. [illegible]

(5.)

R. Q. S. Do you [illegible] principle of [illegible], were [illegible] the [illegible] (Objected [illegible] [illegible] [illegible]

(Same objection.)

283 A. Well, I won't state anything of the kind, unless I can explain it. There is three different patterns of these like Exhibit 14, and except them gangs cut the sand this way [witness holding Exhibit 14 with the bar up, arms projecting downwards], so you could cast these pieces [pointing to the loops], and leave no metal in the back of the bar. Yes, I had always cast afterwards.

R. Q. 57. Do you know Mr. Fitzgerald here present, partner of the complainant, and, if so, state the circumstances that caused your acquaintance?

(Objected to as immaterial, irrelevant and incompetent.)

A. I think I know him; his face looks familiar. He looks like a man that came to the shop in 1867, about June, and the man that came wanted to get the patent; my book-shop patent.

R. Q. 58. What did he offer for the patent, and what was said, if anything?

(Objected to on the same grounds.)

A. He wanted to get the patent, and if he couldn't buy the patent, he wanted it on a royalty. I told him it was not for sale.

Redirect:

R. X Q. 59. What else did the man say?

A. He gave me his card, and he said, I think, he manufactured in New Jersey.

R. X Q. 60. Where is the diary from which the items given in answer to Q. 48 were taken?

(Objected to as immaterial).

A. Both of those diaries for 1865 and 1866 are at home.

R. X Q. 61. When were the entries in the memorandum book from which you read in answering that question, made?

A. Last night.

R. X Q. 62. Do you know what particular castings are referred to in those entries?

A. I can't swear to which of the three patterns they were from.

W. C. WATSON.

Subscribed and sworn to before me this 26th day of August, 1875.

ERNEST C. WEBB, (No. 4,)
Notary Public, N. Y. County.

1 p. m., adjourned to 2 p. m. for recess.

2 p. m. Met pursuant to adjournment.

Present, counsel as before.

Adjourned to Friday, August 27th, at 10½ a. m.

NEW YORK, *August 27th*, 1875.

Examination of CHARLES N. MILLER continued.

I remember Exhibit 10, we dealt in it, and Exhibit 11, likewise. Now Exhibit 12, I would like to swear that the cores were riveted when it [illegible] and Exhibit 13 [illegible] I never saw Exhibits 12 and 14, before I saw [illegible] I have described before. Now as to the [illegible] I never inquired with reference to the price of [illegible] and

I don't think they would except to state the sale of

R. Q. 34. Did you object [illegible]

A. No, I don't know either of them

R. Q. 35. Did you know [illegible]

(Objected to as immaterial.)

A. I would like to know who the defendant is. I don't know the defendant by name.

R. Q. 36. Did not Mr. Reeser call on you [illegible] to come and [illegible]?

A. I decline to answer, as I don't see what it has to do with the matter. The gentleman I now learn to be him, did call.

R. Q. 37. State the conversation between you and him when he called on you yesterday.

A. I decline to state it, further than he requested me to come and sign my testimony.

R. Q. 38. What did you say to him?

(Objected to, same ground as before.)

A. The answer to the preceding question is the answer to this; I mean to say I decline to answer.

R. Q. 39. Did you not ask him what it was worth to him to obtain your signature to your testimony?

A. I decline to answer.

(Defendant's counsel requests the officer to instruct the witness that he must answer all questions, excepting those which [illegible] admits criminal acts; and that he remains himself [illegible] ment for contempt by refusing to answer [illegible]

Witness says: The question [illegible] mer, the defendant, called upon [illegible] was a lawsuit. I never [illegible] which Mr. Wilson [illegible] able; he talked about [illegible]

283 he merely [illegible] wanted to come, and [illegible] which I did. [illegible] same without it [illegible] be sworn to [illegible] [illegible] [illegible]

business with it, believing as he first stated to me that my attendance here was purely voluntary and not being aware that this examination was ordered by any court. He said he was willing to pay me for my trouble, but didn't say what he thought it was worth, nor did I. I believe this was all the conversation that took place, further than to say he would subpœna me, which he did, and to which I have answered.

R. Q. 40. Did not, before the subpœna was served on you yesterday, the officer call on you with your testimony and request that you read and sign the same?

A. He did.

R. Q. 41. Do I understand your explanation before given to mean that you do not remember having sold or dealt in bundle-holders that were made without a lower bar as in Exhibit 11, but with cross-straps or stirrups, substantially like Exhibit 12?

(Objected to as leading.)

A. I only remember one case in point, which I have already mentioned, of selling a bundle-holder to a cigar peddler; would not swear whether that had a strap or a cord; think it had a lower cross-bar like the book-clamp.

R. X Q. 42. Have you, since the day you were first called to testify, been approached by or talked to by any one in the complainant's interest in reference to the matters to which you have testified?

A. I have never seen or spoken to either of the complainants on any occasion outside of this room, nor here, to my knowledge, nor by any one in his interest.

CHAS. N. MILLER.

Subscribed and sworn to before me this 27th day of Aug., 1875.

ERNEST C. WEBB, (No. 4.)
Notary Public, N. Y. County.

NEW YORK, *Aug. 27th*, 1875.

Met pursuant to adjournment. Present, counsel as before.

PHILIP METZGER, a witness called on behalf of the defendant, being duly sworn, deposes and says as follows:

Q. 1. What is your age, residence, and occupation?

A. I will be 41 next winter; 803 Bucknell street, Philadelphia. I am foreman for Charles F. Rampp, 116 and 118 North Fourth street, Philadelphia.

Q. 2. When did you enter the employ of Mr. Rampp?

A. On the first of March, 1863.

206 Q. 3. Look at the shawl-straps or bundle-holders now before you, which are marked Exhibits 17, 18, 19, and Exhibit Rampp, and state whether or not you know where they were made and by whom?

A. I made them all; at least I didn't make them myself; they were made under my supervision. They were made by a man by the name of Hinz, at Mr. Rampp's factory.

Q. 4. When first did you know of bundle-holders of the style of Exhibit 18, and state how you came to know about them, and give your full recollection of all the circumstances.

A. The style of shawl-straps, &c., they come from Europe; I think it was the first Christmas I was with Mr. Rampp—the Christmas from 1862 to 1863. A lady [illegible] the needle-work and had it made up. I believe she took her European sample with her. That is the first shawl-strap I made—this needle-work.

Q. 5. State whether or not [illegible] below the ends of the handle; and if so, how [illegible]

A. It was [illegible] of needle-work and were stiffened with [illegible] tell whether it was iron or wood. I think it was [illegible] because iron was too stubby. I used [illegible] because the first was ugly; to an [illegible] needle-work bundle-straps came in in large [illegible] jobs at first. Somebody told us that they were all [illegible] Europe. I don't know whether it was me or Mr. Rumpp, or [illegible] clerks, got the idea to make them by the dozen.

Q. 6. In what year did you first make them by the dozen?

A. I think it was in 1864—that is a mistake; I mean 1865.

Q. 7. Will you swear that they were made by the dozen in 1865?

A. I can't give the exact quantity, as I [illegible] Mr. Rumpp; but I can swear that I cut them out in large [illegible] in 1865 and 1866. I know this positive, because I bought [illegible] at the time. I bought this cutting-[illegible] while we were in the old factory.

Q. 8. How were the shawl-straps which you made or sold in 1865 constructed with regard to the bar? Were [illegible] what was stiffened with iron or other substance, or whether it was both.

(Objected to as leading.)

A. The needle-work bars I made first, these were stiffened with hoop iron, that is, band-iron I took from boxes imported from Europe. Sometimes I only stiffened them with leather and wood. I cut the wood in shape of the needle-work.

Q. 9. When was Exhibit No. 17 made?

A. This was made for Mr. Turner, our salesman. It was made in our old factory. We moved to the new factory—I forget all about to ask when we did move—it was in 1866 or 1867, in the spring; I can't tell exactly which year. Mr. Rumpp can tell you exactly.

Q. 10. Do you remember that Mr. Rumpp had a cellar fitted up for a store?

(Objected to as leading.)

A. Yes, sir.

Q. 11. Was the factory moved before or after that cellar was fitted up?

A. I think it was about the same time we moved. I [illegible] this (Exhibit 17) to a door. It was [illegible] on the door; that's the way it was [illegible] being too flimsy. I made this [illegible] made in the old factory.

Q. 12. When was Exhibit 19 made?

A. This was one of the first made after [illegible] show the ladies how we [illegible] This had wooden stiffening, and [illegible] bar were imported. I don't think [illegible] try, I never saw any made here; Mr. [illegible] Paris.

Q. 13. When was Exhibit 19 made?

A. I think this is not the first straw [illegible] three straps and the same [illegible] fastenings on the handle. The [illegible] ends and [illegible] Then the American trimming came in, [illegible] ing like Exhibit 19.

Q. 14. When did you first make shawl-straps with loops at the ends, like those at the ends of Exhibit 19?

A. When we made the first leather ones; we made the first leather ones in 1864, when we were going to make those—witness holding up Exhibit 19—of leather. This kind was made in 1864, they were made after those other ones which were sewed on the ends.

Q. 15. What is the name of the laborer who made the first stiff bar shawl-straps in Mr. Stumpp's shop?

A. The first leather shawl-straps were made in the factory by different hands, until we got very busy with satchels, we gave some of the shawl-straps out as over-work to Mr. Hine, he made the most of them at home.

Q. 16. When first did you give leather shawl-straps out to Mr. Hine as overwork?

A. In 1865.

Q. 17. How long before giving them out as overwork, had they been made in the shop?

A. I think it was a year, we only made a dozen at a time. At the very first, I think, we only made 2 a dozen.

Q. 18. State when first you saw a bundle-holder, with a stiff bar below the bundle, and with straps extending around the bundle from that bar.

A. When I was a little boy, we had one in our own house; my father was a country harness-maker, and when he went out to farmers to repair their harness, he had a shawl-strap the same as this—witness holding up Exhibit 17—with two straps where he rolled up his leather to mend the harness with, then he carried it by sticking his stitching-clamp like this—(witness putting his hand flat through the handle of the strap,) and then flung it on his shoulder. I saw similar straps made in Germany of willow ware, the farmers using it to carry their hay and straw.

1 p. m., adjourned to 2 p. m. for session.

2 p. m. Met pursuant to adjournment.

Cross-examined:

X Q. 19. Where were you born?

A. In Germany, near Heidelberg, Rappenau is the name of the town.

X Q. 20. When did you come to this country?

A. In 1854.

283 X Q. 21. State what you were employed at, and where, from that time till you went into Stumpp's employ?

A. I learned harness-making from my father, and as I was young and not a very good workman, I learned carriage-trimming in Cincinnati, Ohio, with Mr. Ostein, and stayed there until the war broke out, and then I got out of work, because Mr. Lincoln was elected, as we worked for the South. I worked a year in St. Mary's, Ohio, then I went back to Cincinnati and worked on army-work for a few weeks; then I came on east, and worked for Adams and Bertram of this city, for a few months; then I wanted to go home and went to Philadelphia, and Mr. [illegible] and then I went to Illinois, and I have been there ever since.

X Q. 22. By what vessel did you come here, and from what port did you sail?

A. I came in the Wellington from London. The Wellington was [illegible] and also arrive here in New York?

[illegible]

X Q. 26. What was you employed to work with Rapp?

A. I made satchels first.

X Q. 27. What other work were you employed [illegible]?

A. First I made satchels, and then [illegible]

X Q. 28. How long did you work on [illegible] [illegible] shovel-stamps?

A. It was the same Christmas [illegible] I came there in March, and the [illegible] stamps I made; it was for [illegible]

X Q. 29. [illegible]

A. Some half [illegible] them and sold to [illegible] the clerks brought it to me; I [illegible]

X Q. 30. What [illegible] made up?

A. I found it up [illegible] make a shovel-stamp out of it, and open [illegible] think it needful [illegible]

X Q. 31. If this [illegible] you did to every [illegible]?

A. They went in fashion in Europe; that [illegible] member. I made all about them [illegible] I told you, my father had one.

X Q. 32. Did you have a shovel-stamp to make for [illegible]?

A. No, I [illegible] the material for [illegible]

X Q. 33. How many, in detail, have you [illegible]

(Objected to as already answered.)

A. I [illegible] about two [illegible] 200 [illegible] [illegible] about Christmas time.

X Q. 37. Was the needle-work which was brought on the binding straps only of the first one testified to?

A. It was on the binding straps only; on top of the bar was leather.

X Q. 38. Where had you seen shawl straps, prior to this first one, except when you were a boy?

(Objected to as immaterial, and as assuming that the witness has testified that he had seen other shawl straps during the time covered by the question.)

A. I have not seen them nowhere; I made it according to the instructions from the store.

X Q. 39. When did you next make a shawl strap?

A. It wasn't long after; we got some more in.

X Q. 40. How long?

(Objected to as immaterial.)

A. I have answered that before, when I said that it increased every day, and it increased more every Christmas; I couldn't recollect the minute when the next came in.

X Q. 41. Have you any recollection of the second one you made?

(Objected to as immaterial.)

A. No; I can't tell exactly when I made the next one. I know we made a good many the Christmas after.

X Q. 42. Was the bar of the first one covered with leather?

(Objected to as already answered.)

A. Yes; the first one was covered with leather.

X Q. 43. When did you make the first leather shawl strap?

A. Seeing this work increase so, we made a half dozen first of leather in 1865, about Christmas. They were made for the stores; they wasn't ordered.

X Q. 44. How many did you make to order in 1864?

A. That would be impossible for me to tell. Maybe we made a few dozen.

X Q. 45. How many did you make to order in 1865?

P. METZGER.

The further examination of this witness adjourned to Monday, Aug. 30th, at 11 a. m.

270 NEW YORK, *Aug.* 30th, 1875.

Met pursuant to adjournment. Present, counsel as before.

The [illegible] of PHILIP METZGER resumed by Mr. BARNUM.

Counsel for defendant gives notice that he has ascertained on the 28th inst., that Frank Mehlberg, of No. 154 Third avenue, New York City, has knowledge of prior use of right bar shawl straps in this country, and that therefore the defendant proposes to take his deposition and re- [illegible] on the answer by the introduction [illegible] Mehlberg's name immediately after the [illegible] and that, owing to the prolonged cross-examinations of his witnesses he will not be able to complete the testimony of the defence by the [illegible] and that [illegible] weeks, as [illegible] in the order of July 19th, 1875, should be added order to leave four weeks for rebuttal.

Complainant's counsel declines both propositions for the present, but while he is not unwilling to give [illegible] matters of which he has notice, but [illegible] case for which this last proposition [illegible] because he is surprised in his evidence [illegible] by the [illegible].

Defendant's counsel gives notice that he [illegible] or at [illegible] Judge Hixon, in the [illegible] his private residence in [illegible] time for taking proofs, to [illegible] order that the answer be [illegible] name, as above set forth, and [illegible] read from this record and also his own [illegible] discovered the matter to be proved by [illegible] 28th inst., and no answer; that the matter to be [illegible] berg is important to the defense; [illegible] quently stated to defendant's counsel [illegible] a reasonable extension of time, and that [illegible] defendant's counsel [illegible] granted defendant for the taking of his [illegible] plains that he did not intend his answer [illegible] four weeks for his rebuttal, but only [illegible] mentioned in the order of July 15th, 1875, [illegible] any extension of defendant's time.

271 Complainants' counsel [illegible] state what he [illegible] that the order of July 15th, [illegible] complainant's testimony [illegible] the amendment and extension desired by [illegible]

Defendant's counsel states, that he [illegible] that said Meinberg publicly exposed for sale [illegible] and did sell, in 1864 and 1865, [illegible] three shovel-straps marked Meinberg [illegible] passed in 1864 or 1865.

Complainant's counsel [illegible] for putting in their proofs, and requests that [illegible] now state within what time he thinks his [illegible] p'leted, and promises to consent to [illegible]

Complainant consents that the [illegible] provided Meinberg is not called [illegible] 1875.

The witness, Metzger, desires to [illegible] follows:

"We moved to our new factory in [illegible]

A. to X Q. 45. I don't know; I [illegible] of the work.

X Q. 46. About how many to the [illegible]

A. I can't recollect nothing, so I [illegible] how many to cut out.

X Q. 47. How many did you [illegible]

(Objected to as the witness has [illegible] remember the number of [illegible]

A. I can't tell positive [illegible] them; I wouldn't swear to no [illegible]

Q. 45. Describe the first half dozen leather rigid bar shovel-straps you made.

(Question to or already answered.)

A. They were made out of a piece of hoop iron, covered with leather, with a buckle riveted on; the first half dozen had two straps only. It had a round handle on it; the end of the handle was flat and riveted on. I don't tell whether the end, where the strap ran through, was riveted on or curled on. The ends of the handle ran down to form the block and it was riveted on this inner end of the hoop; but whether the outer end was riveted or soldered, I don't know.

Q. 46. How long did you continue to make them this way?

(Objected to as immaterial as not explaining what counsel means by this word whether the bar, the handle-connection, the loop, or what.)

A. We made them all the time after, but I can't tell the number; I can't tell about that.

Q. 47. Was it a week, a month, a year, or five years?

(Objected to, and answered already answered.)

A. I don't tell.

Q. 48. Why do you not remember whether the outer end of the loop was soldered or riveted in the first half dozen you made?

A. Why, I don't remember; I don't tell myself; it's such a trifle; I don't keep all those things in my head.

1 p. m. Adjourned to 2 p. m. for lotion.

2 p. m. Met pursuant to adjournment.

Q. 49. Do you remember the striking circumstance as to what was the thickness and breadth of the bar of the straps just referred to?

A. I don't tell the width of the bars, but I know the iron was taken from assorted lengths.

Q. 50. Did the iron bar extend the whole length of the cross-piece?

A. Yes, it extended the whole length.

Q. 51. Describe the next style that you made?

(Objected to as manifestly not distinguishing between the straps which the witness made to order and those which he made for stock.)

A. The next style I made with handle, with the handle riveted on the handle.

Q. 52. Is that the only difference.

A. That's about the only difference.

Q. 53. When did you make this style?

A. Some time after I made the other style, I can't tell how long it was; it was in the winter of 1864.

Q. 54. What was the next style of strap you made?

A. The next style was three straps, that was the only difference.

Q. 55. When was that?

A. I don't tell what we began the three straps.

Q. 56. About what year was it?

A. [illegible]

Q. 57. What was the next style you made?

A. That's all the styles we made.

Q. 58. How [illegible] for C. F. Hunpp?

A. [illegible]

Q. [illegible]

A. [illegible]

Q. [illegible]

A. [illegible]

Q. 59. Did you become [illegible] as you went with Hunpp?

A. Yes, sir, in the [illegible] shop.

X Q. 64. What men, besides Hien, worked on rigid bar there from 1863 to 1868?

A. Ballier, Boeff, there was several others, but I can't recollect their names. Ballier is there yet.

X Q. 65. When did Ballier first go there?

A. I can't tell, 1866 or 1867, I can't tell the year.

X Q. 66. Where is Boeff?

A. Boeff is somewhere out in Wisconsin, I don't know now where.

X Q. 67. Name the workmen who first made the needle work about strap?

A. I made them myself. I made it with my own hands, but I am not positive that I made it all myself. The operator attached it.

X Q. 68. When did you first see Exhibits 18 and 19 respectively?

273 A. I made this, Exhibit 18, in 1864. This one, Exhibit 19, was made later; I cannot tell when I first saw it. This is the style we have now.

X Q. 69. How long have you been making the style of Exhibit 19?

A. I can't tell you; we have got a lot of them on hand now; we don't sell them.

X Q. 70. Have you any recollection as to how long you have made style like Exhibit 19?

A. We made that style in 1865, excepting the knots.

X Q. 71. How long have you made straps of the style of Exhibit 19, just as it is?

A. I think it was the winter of 1865, or spring of 1866; I can't tell the date.

X Q. 72. Have you talked with C. F. Rumpp in reference to your testimony here; and, if so, when?

(Objected to as immaterial.)

Witness asks if counsel means the testimony given on Friday.

Counsel says, "I mean any of your testimony."

A. No, sir; we talked about the case when I got home on Saturday. I told Mr. Rumpp I had to sit here all day for nothing when I was sick. That is all I recollect.

X Q. 73. Did you talk with him before you came on first; and, if so, when?

(Same objection.)

A. He told me to come over here as a witness; that is all.

X Q. 74. Did you talk with him before that about the matter; and, if so, when?

(Same objection.)

A. We talked often about it; me and Mr. Rumpp about it, the whole factory talked about it. Mr. [illegible] first told me [illegible] put on making them. We had a big joke about having a patent [illegible] a piece of wood and iron.

X Q. 75. When was that?

(Same objection.)

A. The time Mr. Rumpp got notified, some years ago; [illegible] this year.

X Q. 76. Do you recollect whether it was [illegible]

(Same objection.)

A. It was before last summer.

X Q. 77. How long before last summer?

(Same objection.)

A. I can't tell that.

X Q. 78. Was it as long ago as 1868?

(Same objection.)

A. I can't tell.

X Q. 79. Did you make straps with rigid cross-bars in large quantities up to this year.

A. We never made large quantities; that, is, I don't know what you call large quantities.

X Q. 80. How many did you make a year from 1865 to 1875?

(Objected to as immaterial and as already answered.)

A. I can't tell that; Mr. Hiss never made more than six dozen at a time; he took them as over-work.

274 X Q. 81. Who made the first half-dozen leather ones?

A. We all worked on them, the whole factory; it was very small then.

Redirect:

R. Q. 82. What would you call large quantities?

A. For instance, the pocket-book makers make pocket-books by six or twelve gross. That is what I call a large quantity, but this we have never done with these shawl-straps.

R. Q. 83. What special instructions, if any, did Mr. Rumpp give you when you left Philadelphia first to give your testimony?

A. Mr. Rumpp told me not to say anything that I couldn't swear to.

R. Q. 84. You say the next style of shawl straps which you made after the first half-dozen leather ones was made with a handle sewed on to the knob. How was the handle sewed on to the knob?

A. It was a round handle; the end turned into the ring on the knob.

R. Q. 85. Does your answer to Q. 70 have reference to the style of attaching the loop and handle to Exhibit 19, or to the three straps thereon, or both style and three straps?

(Objected to as leading.)

A. We made them with three straps and with a knob on in 1865.

R. Q. 86. Do you know about the length of the iron in the first six leather straps?

A. No, sir.

R. Q. 87. Was it six feet?

A. No; may be it was a foot; about the same length (witness pointing to Exhibit 19). They were all about the same length.

R. Q. 88. You have been speaking about leather shawl-straps in your testimony; what do you mean by those leather shawl-straps?

A. To distinguish leather from needle-work.

P. METZGER.

Subscribed and sworn to before me this 30th day of August, 1875.

ERNEST C. WEBB (No. 4),
Notary Public, N. Y. County.

Adjourned to August 31st, 1875, at 10½ a. m.

NEW YORK, *Aug. 31st*, 1875—10½ a. m.

Met pursuant to adjournment. Present, counsel as before.

Adjourned to Sept. 1st, 1875, at 10½ a. m.

NEW YORK, *Sept. 1st*, 1875.

Met pursuant to adjournment. Present, counsel as before.

Adjourned to Sept. 2nd, 1875, at 10½ a. m.

275 NEW YORK, Sept. 2nd, 1875.

Met pursuant to adjournment. Present, counsel as before.

PATRICK J. BUCKLEY, a witness called on behalf of the defendant, being duly sworn, deposes and says as follows:

Q. 1. What is your age, residence, and occupation?

A. About 37 years old; my residence is 1014 Jefferson street, Philadelphia; occupation, saddle and harness maker.

Q. 2. Were you ever in the employ of Knorr, Nece & Co., Philadelphia, and if so, during what time?

(Objected to as leading.)

A. Yes; I learnt my trade with them. I was there from 1853 to the time the firm dissolved; that was in the fall before the war broke out.

Q. 3. At what kind of articles did you work while in their employ?

A. Made harness, bridles, saddles, &c., and I was employed as a cutter most part of the time; the latter part of the time before the firm dissolved. I cut the bridles and straps, all orders, that is, a certain part of the orders; there was two or three cutters, and I cut, of course, a certain part of the orders.

Q. 4. You say you cut straps; what kind of straps?

A. Well, I cut bridles, were the principal straps. I cut shawl-straps, skate-straps, and all other kind of straps that was ordered.

Q. 5. Please describe the shawl-straps.

A. The first shawl-straps that I remember cutting were about a yard long and $\frac{1}{2}$ of an inch wide; the bottom or bar that connected them was stiff leather at first, heavy stiff leather sewed either by hand or machine; those pieces of leather with a round handle, forming a loop for the straps to pass through, riveted on. Some of them straps at that time, I cut, were book-straps and used for book purposes, were made with a mahogany or walnut bar. Those straps were fastened to the bar by a screw, I think. These bars were not covered at all, they were varnished. Some of those shawl-straps in the latter part, the bottom was cut out of light leather, and sewed with a machine, and were stiffened with loop or sheet iron, that was got in the shop next door, stuck in between, and a round handle riveted on the same as in the first one.

Q. 6. When and where were the shawl straps last described by you made?

A. Between Sept., 1857, that's when the panic took place, and the fall of 1860, the year the firm closed. They were made in No. 1110 Noble street, Philadelphia; that's where the factory was.

Cross-examination:

X Q. 7. When and where were you born?

A. I was born in Ireland in 1838.

X Q. 8. When did you first come to this country?

A. In 1849.

X Q. 9. By what vessel, from what port, and to what port did you come?

In the ship Lady Peel, from Limerick to Quebec.

X Q. 10. What time of the year did you arrive?

A. In the latter part of May.

276 X Q. 11. When and where did you first come to the United States?

A. In the month of May same year, to the State of Vermont, near Burlington.

X Q. 12. How long did you stay there?

A. I left there in Aug. or Sept. of the same year.

X Q. 13. State where you were from that time to 1852, and how long you remained in any place in which you may have been?

A. I went directly from Vermont to Philadelphia, and remained there until 1852.

X Q. 14. When did you first find employment, with whom, and where?

A. About the beginning of 1850, with Bockius and Brothers, at No. 50 Market street, Philadelphia; that was the old number, and stayed with them until I went to Knorr, Neee & Co.

X Q. 15. What was the business of Bockius & Bros.?

A. Saddle and harness manufacturers.

X Q. 16. At the time you cut out these shawl-straps, who made them up?

A. Sometimes I made a part of them; being employed by the week, I prepared them, and girls or boys made other parts of them; they sewed buckles or other stiching on them. Mr. Hipple, the bookkeeper, he received and gave out the orders to the cutters to cut, and he seen to having them finished by other hands working by the week, if I hadn't time to do it.

X Q. 17. What were the names of the other cutters?

A. George H. Mecke was one of them, he was a harness cutter. Samuel Miller was cutter part of the time, and Henry Lies; there wasn't any other regular cutters there. Thomas Jones cut saddle straps.

X Q. 18. Who knew of these shawl straps, besides those you have named?

(Objected to as incompetent, and as implying that the witness said that the other persons named by him knew of these shawl-straps.)

A. Knew of there being made, I suppose you mean. That I can't say; parties that bought them, I suppose knew of them.

X Q. 19. Which of the parties, named by you, knew of the shawl-straps being made?

A. Wilfried Hipple, he got them up, and I know he know of them. That is the answer I know is correct; I can give you suppositions if you want them.

X Q. 20. Where is Hipple now?

A. I understand he died two years ago; I was informed by Mr. Knorr.

X Q. 21. Where are Mecke, Miller, Lies, and Jones now?

A. Mecke is in Philadelphia, at least he was there some time ago; I don't know where in Philadelphia. Miller is dead. Lies is dead, I understand; Jones is in New York, I understand; I heard he was cutting for Rothan and Company in Grand street.

X Q. 22. In what year did you first cut out shawl-straps?

A. That I can't say; I am not positive whether I cut any in 1857 or not. I am positive I cut some in 1858; I know I cut them in two seasons.

12.30 p. m. adjourned to 2 p. m. for recess.

277 2 p. m., met pursuant to adjournment.

The cross-examination of PATRICK J. BUCKLEY resumed by Mr. Barnum.

X Q. 23. Where is your place of business now?

A. 114 North Third street, Philadelphia.

Redirect:

R. Q. 24. What is your present business?

A. Saddle and harness making. I am in business for myself.

R. Q. 25. Did the man Jones named by you work on shawl straps or not, as far as you know?

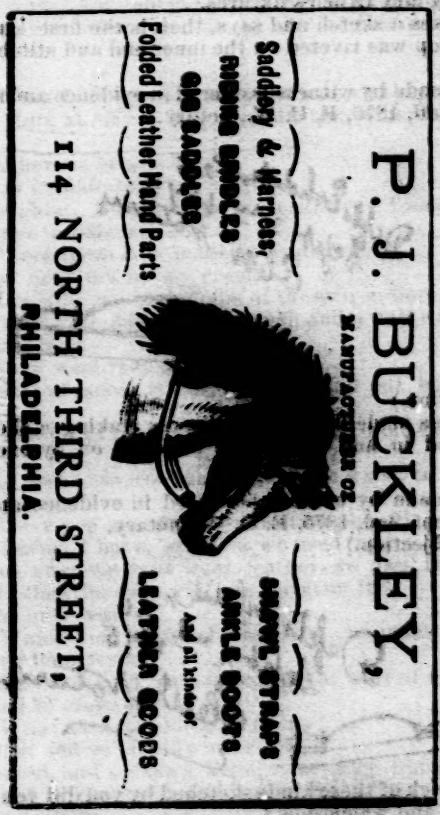
A. He worked in a different branch of the business, he cut saddle-stock alone, and worked in a different room.

R. Q. 26. Have you one of your business cards here?

A. I have, but your address is on the back of it.

Card produced by witness, is offered in evidence and marked Exhibit No. 24½, Sept. 2nd, 1875, R. C. W., notary.

Defendant's Exhibit No. 24½, Sept. 2d, 1875.—R. C. W., Notary.



(The horse's head in the original is printed in red.—Printer.)

(Objected to as immaterial.)

R. Q. 27. What kind of shawl straps are those which are mentioned on Exhibit No. 24½?

(Objected to as immaterial and not properly redirect.)

A. It has no reference to any special kind. I make five or six different kinds of shawl straps, some with stiff bar and some without them.

R. Q. 28. How do those which you now make with a stiff bar compare with those which you made between 1857 and 1860?

(Same objection.)

A. The ones I make with stiff bar now, the bar is partly oval on top and of wood. The bar then was of iron and flat wood. One kind I make now, the handle is made round and similar to the ones made then; the other handles have Riley and Lynch's patent handle-fixtures and brasses.

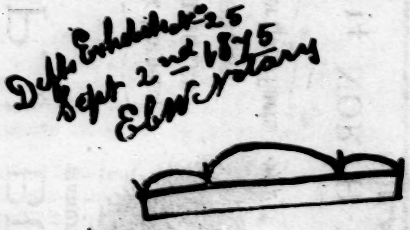
R. Q. 29. How about the loops?

(Same objection.)

278 A. The loops on that one kind were over the bar, I think; they were made two ways. The loops on that one kind were made similar to one kind I now make. The other kind I now make with stiff bars have Riley and Lynch's fixtures.

Witness makes a sketch and says, that is the first kind I remember about. The loop was riveted on the inner end and stitched on the outer end.

The sketch made by witness is offered in evidence and marked Exhibit No. 25, Sept. 2nd, 1875, E. C. W., notary.

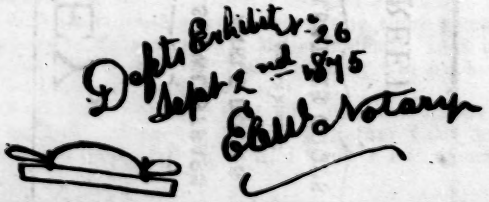


(Same objection.)

The other was made like this: (Witness making a sketch, the end of the loop turned in and the handle fastened on by one rivet on each side.)

The sketch made by witness is offered in evidence and marked Exhibit No. 26, Sept. 2nd, 1875, E. C. W., notary.

(Same objection.)



R. Q. 30. Which of these kinds sketched by you did you make between 1857 and 1860, and which now?

(Same objection.)

A. I assisted in making those; I cut the straps and prepared the straps of these similar styles, both of those Exhibits 25 and 26. That was either in 1858, 1859, or 1860, to the best of my belief. They were made in those years. I don't know which kind I made in those years. The first kind we made out of stiff leather. This Exhibit 26 is one of the kinds I make now.

R. Q. 31. What do you mean by saying, I don't know which kind I made in those years?

A. What that has reference to is, I don't know which of those years I made the stiff wood bars, as some of them were made with stiff leather bars.

279 Recrosa:

R. X Q. 32. What was the bar made of in Exhibit 25?

A. Both of iron and wood; some iron, some flat wood.

R. X Q. 33. What kind of iron?

A. To the best of my knowledge it was sheet or hoop iron, that I got next door to the factory, next door Knorr and Neece's.

R. X Q. 34. Cannot you remember whether it was hoop or sheet iron?

(Objected to as immaterial, and as the witness has not testified about hoop iron.)

A. I cannot.

R. X Q. 35. What kind of a store was it, and who kept it?

A. It was no store at all; it was a saddle-tree manufactory, kept by C. Prudden.

R. X Q. 36. Where is he now?

(Objected to as immaterial.)

A. In Philadelphia. I don't know his residence; I have seen him frequently; he is not in business now.

R. X Q. 37. Were these bars made by your order?

A. No, I think not; not by my order.

R. X Q. 38. Describe size and shape of these iron bars.

A. The iron bars were flat, about an inch and a half wide, and twelve to fourteen inches long.

R. X Q. 39. How were they made?

A. Simple strips of metal cut off straight and put between the two leathers.

R. X Q. 40. What was the bar made of in Exhibit 26, from 1857 to 1860?

A. I think the first were iron, and some were wood, to the best of knowledge.

R. X Q. 41. Have you any clear recollection about it?

A. The recollection I have, is where we used heavy leather we used the iron bar, and when we used light leather we used the wooden bar.

R. X Q. 42. Is that the only way you recollect it?

A. That is the only way.

R. X Q. 43. Which kind of shawl-straps did you make first?

(Objected to as immaterial.)

A. Shawl-straps with stiff leather bar, to the best of my knowledge; that is, I assisted to make them.

R. X Q. 44. What assistance did you give?

(Same objection and as already answered.)

A. Cut, prepared, and stitched them sometimes when not employed cutting; I worked by the week, and had to fill in time; all those jobs I had to lay by for cutting.

R. X Q. 45. What kind of shawl-straps did you next make?

A. I don't know if they were the same kind or not; they were of too little importance to remember. They were made between such long intervals, and they were of such trifling importance, that I don't recollect.

R. X Q. 46. Do you recollect what kind of bar you first made after the leather bar testified to?

A. I don't remember whether it was iron or wood; I think it was iron.

280 R. X Q. 47. Were you indentured as an apprentice to Knorr, Neee and Company?

(Objected to as not recross.)

A. No.

PATRICK J. BUCKLEY.

Subscribed and sworn to before me this 2d day of Sept., 1875.

ERNEST C. WEBB, (No. 4,)
Notary Public, N. Y. County.

Adjourned to Sept. 3rd, 1875, at 10.30 a. m.

NEW YORK, *Sept. 3rd*, 1875.

Met pursuant to adjournment. Present, counsel as before.

DANIEL RISSLER, a witness called on behalf of the defendant, being duly sworn, deposes and says as follows:

Q. 1. What is your age, residence and occupation?

A. Age, 38 years; 77 Myrtle avenue, Brooklyn, New York; trunk maker at 64 Myrtle avenue.

Q. 2. Do you deal in shawl-straps?

A. Yes.

Counsel gives notice that this witness is the same whose name appears in the answer as John Rissler, and whose special address was given to complainant's counsel, in reply to his letter of April 17th, 1875. Counsel did not know until this morning that his name is not John but Daniel.

Q. 3. How are the shawl-straps made with regard to the bar?

(Objected to as immaterial.)

A. I buy some of Roemer; they have nickel-plated bar. I bought some of a man in Elm street, N. Y. City, I don't know his name; they are made of leather.

(Addressing Mr. Fitzgerald.) I showed you some of these when you were over.

(Objected to last clause of answer as incompetent and immaterial.)

Some I make myself, they have a flat steel plate in.

Q. 4. When first did you make a shawl-strap with a stiff bar?

A. About three or four weeks before Christmas, 1861.

Q. 5. Please explain how you came to make it, and describe the bar and its position.

A. The covering was made on bead work, about 11 or 12 inches long and a little more than 1½ inches wide. A lady wanted me to make that for a bundle-strap, that she could carry her bundles in. That is, on each end she wanted a strap for strapping up the bundles. That was not stiff, and I had to take a piece of wood and cover it over. I cut out the wood near the ends about ⅞ inch wide and not quite ⅛ inch deep for the strap to pass through. Then I laid the embroidery on top of the bar and covered it over and stitched the edges on the lower side of the bar. Then we took a piece of red leather, and put it on the bottom and stitched it to the embroidery. There was two holes in the wood for the handle to rivet on.

282 Q. 6. When first did you see a stiff bar shawl-strap?

A. I seen them in Wilson's store, 172 William street, New York; that was after they were patented.

Q. 7. Question repeated.

A. The one I made is the first one I made. That was not a shawl-strap; when it was sent to me it was only a small strip of embroidery worked with beads.

Q. 8. Have you lately been visited by Mr. Crouch, complainant?

A. Not lately, about two or three months ago; he was over there and told me that Mr. Roemer had put my name down as a witness. That is all I know about it.

Q. 9. Did you or not then show Mr. Crouch the stiff bar shawl-straps which you had made?

A. Yes; I showed them to him.

Q. 10. State whether or not he then forbade you to continue dealing in stiff-bar shawl straps.

A. I showed him those that I made, and Mr. Crouch, answering me, said I was all right.

Q. 11. When was Mr. Fitzgerald, Mr. Crouch's partner, last in your establishment?

A. I don't know Mr. Fitzgerald; I never saw him in my life. I may have seen him, but can't tell him personally.

Q. 12. Do you know the name of the person who now now sits on your left-hand side?

A. So much as I know, it's Mr. Crouch.

(The person referred to as sitting near the witness is Mr. Fitzgerald.)

Q. 13. How came you to think that this was Mr. Crouch?

A. Because I know him from the last time he came to my place, and because a little while ago, when I spelt my name here, he said he did not know me any more.

Q. 14. When he came to your place, what made you think he was Mr. Crouch?

A. I didn't know him when he came in; he asked for John Bleeker, and I told him there was nobody by that name in the place; so he told me that he was Mr. Crouch, and he came about those shawl-straps arrangement; that was all.

Cross-examined:

X Q. 15. When and where were you born?

A. In 1837, on the 7th of June, in Germany.

X Q. 16. When did you first arrive in this country?

A. The 5th of Nov., 1853.

X Q. 17. From what port, in what vessel, and to what port did you come?

A. From Havre, France, in the William Tell, to New York.

X Q. 18. State the different places you were in from that time until 1861, and how long you stayed in each place.

A. I was always in Brooklyn.

X Q. 19. When did you first go into business, and where?

A. A week after I landed in this country; I went into business at 248 Fulton street, with John Steckert.

283 X Q. 20. How long did you remain with him?

A. Five years.

X Q. 21. Where did you next go in business?

tembe I went in business for myself at 255 Fulton street; that was a usiness.

2. How long did you remain at that place?

To all whom the 1st of January until the 1st of May.

Be it know Where did you remove your business next?

county of Suffolton street.

X Q. 24. How long did you remain there?
A. About three years.
X Q. 25. Where did you next go?
A. To 309 Fulton street.
X Q. 26. How long did you remain there?
A. Four or five years.
X Q. 27. Had you any partner during this time; and, if so, whom, and when?
A. No; never had a partner.
X Q. 28. Do you know who the lady was who brought that bead work to you?
A. I don't know who she was; I never saw her afterwards.
X Q 29. Did she come to your place and bring it and also call for the strap, or did you send it to her?
A. She brought it and called for it after it was done.
X Q. 30. Describe the handle of that strap.
A. It was an inch piece of strap, about ten inches long and an inch and a half on each side left for the riveting place. The rest was stitched round.
X Q. 31. Was it riveted through the embroidery, wood and all?
A. Yes.
X Q. 32. How were the ends of the handle finished?
(Objected to as immaterial.)
A. The handle was cut round like an egg shape.
X Q. 33. What kind of straps were used?
A. Used the same colored strap as the handle, russet leather. They were plain leather straps, I can't tell the exact length or width; I used about a ⅞ buckle.
X Q. 34. At what place were you when this was made?
A. That I can't remember exactly; it may have been 305 or 309; very likely it was 305.
X Q. 35. Have you any recollection as to which it was?
(Objected to as already answered, where the witness says, "I can't remember.")
A. I can't tell for sure.
X Q. 36. How do you fix the time when it was made?
A. Because she said she wanted it for Christmas.
X Q. 37. How do you fix the year?
A. Well, I always made out the bills for 1860, and after New Year, I found I had to put the 1 on instead of the 0.

Redirect:

R. Q. 38. Hear the officer read your answers to questions 4 and 37, and explain more fully the time you made that shawl strap.
284 A. Well, that is right. It was in the latter part of November or first of December, 1861. She gave me plenty time to finish it.

DANIEL RISSLER.

Subscribed and sworn to before me this 3d of Sept., 1875.

ERNEST C. WEBB, (No. 4.)
Notary Public, N. Y. County.

The witness states in presence of the officer, and in answer to a question put to him by Mr. Fitzgerald, that Mr. Fitzgerald, when called for the witness, may have said that he was one of the firm of Crouch & Fitzgerald. That's what he represented.

(Defendant's counsel objects to all interference on the part of Mr. Fitzgerald with the witnesses and their testimony.)

Adjourned to Sept. 6th at 11 a. m.

NEW YORK, Sept. 6th, 1875.

Met pursuant to adjournment. Present, counsel as before.

Adjourned to Sept. 7th, at 10½ a. m.

285 U. S. circuit court, district of New Jersey. In equity.

GEORGE CROUCH }
vs.
WILLIAM BOEMER. }

Depositions de bene esse, taken before Eben Hutchinson, esq., notary public, at 69 Devonshire street, Boston, commencing August 24th, 1875, 11 a. m.

Present, counsel for both parties.

Deposition of T. W. PORTER.

Int. 1. State your name, age, residence, and occupation.

A. Thomas W. Porter; age, 54 years; residence, Revere, Suffolk Co., Mass.; place of business, Boston; my occupation, manufacturing and in the practice of law.

Int. 2. Whether or not you are the same T. W. Porter named and mentioned in letters patent No. 85129, dated Dec. 22d, 1868.

A. I am.

The defendant now offers in evidence a certified copy of said letters patent No. 85129, dated Dec. 22d, 1868, granted to T. W. Porter and H. K. Porter, of Boston, Massachusetts, and marked Exhibit 21, B. H., N. P.

286 *Defendant's Exhibit No. 21.—B. H., N. P.*

GEORGE CROUCH, }
vs. } In equity.
WILLIAM BOEMER. }

United States circuit court, district of New Jersey.

No. 85129.

The United States of America to all to whom these letters patent shall come:

Whereas T. W. Porter and H. K. Porter, of Boston, Massachusetts, have alleged that they have invented a new and useful improvement in shawl and blanket straps, and have made oath that they are citizens of the United States; that they verily believe they are the original and first inventors or discoverers of the said invention, and that the same hath not to their knowledge and belief been previously known or used; have paid into the Treasury of the United States the sum of thirty-five dollars, and presented a petition to the Commissioner of Patents, praying that a patent may be issued therefor. These are, therefore, to grant to the said T. W. and H. K. Porter, their executors, administrators, or assigns, for the term of seventeen years from the twenty-second day of December, one thousand eight hundred and sixty-eight, the full and exclusive right and liberty of making, using, and vending to others to be used the said invention, a description whereof is given in the words following, and made a part of these presents.

Be it known, that

county of Suffolk

In testimony whereof I have caused these letters to be made patent and the seal of the Patent Office to be hereunto affixed.

Given under my hand, at the city of Washington, this twenty-second day of December, in the year of our Lord one thousand eight hundred and sixty-eight, and of the Independence of the United States of America the ninety-third.

[L. S.]

W. T. OTTO,
Acting Secretary of the Interior.

Countersigned and sealed with the seal of the Patent Office.

ELISHA FOOTE,
Commissioner of Patents.

287 UNITED STATES PATENT OFFICE.

T. W. Porter and H. K. Porter, of Boston, Massachusetts. Letters patent No. 85129, dated December 22d, 1868. Improved shawl and blanket-strap.

The schedule referred to in these letters patent and making part of the same.

To all whom it may concern:

Be it known that we, T. W. Porter and H. K. Porter, of Boston, in the county of Suffolk, and State of Massachusetts, have invented a new and useful improvement in shawl and blanket straps; and we do hereby declare that the following is a full, clear, and exact description of the construction and operation of the same, reference being had to the accompanying drawings making a part of this specification, in which—

Figure 1 is a perspective view of our invention, and figure 2 is a transverse section, taken on line A B, figure 1.

Similar letters of reference indicate corresponding parts in the several figures.

The nature of our invention consists in combining a rigid bar with the securing-straps and bail, the bail being riveted to the bar and the straps passing between the bar and bail; also in enclosing in the bail a metallic rod for the purpose of stiffening the bail. In the drawings *C C* are the enclosing-straps by which the article to be carried is enclosed and secured. D is the bail, which may be secured to the bar by rivets, as shown, or by any other suitable means; *a* is a metallic rod enclosed in the rounded portion of bail D. This rod may be extended by a flattened portion forming loops through which the straps *C C* could pass, and in this event the bar E could be omitted.

By the usual method of constructing shawl-straps a band of leather is employed in the position occupied by bar E, in which case the weight of the article carried tends constantly, by the strain upon bail D, to draw the straps *C C* together, thereby slackening the band and allowing the bail to bend over the fingers and cramp and pain them.

The substitution of the rigid bar E, which may be of wood or metal, for the common flexible leather band, reduces the cost of the article, while it renders it of greater usefulness; and the metallic rod *a* also tends to keep the bail D in the form most conducive to comfort in carrying.

Having thus described our invention, what we claim as new and desire to secure by letters patent, is—

New York;

In combination with bail D and straps C C, the rigid bar B, substantially as described, and for the purpose specified.

T. W. POSTER.
H. K. POSTER.

Witnesses:
HENRY HYDE SMITH.
HERBERT T. WHITMAN.

288 Int. 3. Please state whether or not this is a certified copy of the letters patent referred to in your last answer?

A. It is.

Int. 4. Will you now explain the nature of said invention mentioned in said letters patent?

(Objected to as immaterial.)

A. The nature of the invention consists in a blanket-strap or shoulder-strap formed with a rigid bar, two or more binding straps, and a bail or handle, which bail or handle, as shown in this patent, was made rigid. The bail is secured to the rigid bar, and the binding-straps are secured in place near the ends of the bar by loops through which the straps pass. The object of the rigid bar was to prevent the binding-straps from being drawn together when used with a limber bail or handle bail or handle not rigid. The object of a rigid handle in connection with the rigid bar was that it would always remain more perfectly in position to be grasped by the hand.

Int. 5. Please state when and how you came to make this invention and what steps you took in relation to the same.

A. I entered the army of the U. S. in 1861, and was discharged in the early part of 1865. During that time I used blanket-straps to carry my blankets. In all rough and hard expeditions it was impossible to have servants with you to attend to your baggage, for the reason that they were not enlisted men; were usually colored persons, went and came as they pleased, and I was often compelled to carry my own blankets and look after my own baggage. The blanket-straps that I used had neither a rigid bar nor a rigid bail, and the binding-straps passed through loops at the ends of the leather bar or strap to which the limber bail was also attached near its ends. I found by experience that the binding-straps were drawn towards each other, the leather strap in which they were inserted was doubled up so as to be in the way—so much so that it was frequently used as a bail to carry the blanket by, and whether carried by this strap or the bail proper, the hand of the carrier was drawn into the bite of the straps. The fingers were pinched and crowded by the pressure of the straps, and it was a common practice, during the halts, to place the binding-straps as far apart on the connecting-strap would admit. I reflected upon this inconvenience, and whether some simple, cheap remedy could be provided. The want was so obvious, and the natural remedy so simple, that I very soon hit upon the idea of a rigid bar. I cannot give the date when I first entertained that idea, but I know positively that it was before the opening of Sheridan's campaign in the Shenandoah Valley, which was in Sept., 1864; I joined his army in August of that year. I left his army some time in September, 1864, and during that entire campaign it was nearly if not impossible to get a servant, and I took care of what baggage I had, which consisted usually of two blankets. During this time I saw To all whom wants of an improvement in blanket-straps, have been

Be it known experimented and tested the practical utility of [illegible] county of Smithtown experiments to my own [illegible], when I had [illegible] by

fastening the binding-straps apart at the point where they passed through the strap which lays along the blanket, and by then taking the strap by the bail or handle, moving or shaking the blankets and seeing how it felt in my hand. I never carried my blankets in that way on the march, for the reason that I considered the invention valuable. I could not then attend to the taking out a patent, and did not know when I should be able to do so, and I knew that the first suggestion to a man who had any inventive or speculative faculties might prompt him to anticipate me at the Patent-Office; and as men were constantly
289 coming and going, some man who was being discharged might, when he reached a place where there were proper facilities, apply for a patent.

Int. 6. Will you please state in what manner and of what material you made this rigid bar to your blanket strap above mentioned and while you was in the U. S. Army?

A. While I was in the army I had not the facilities to manufacture blanket straps. I made my experiments upon a blanket strap, which I had purchased, and which I then and there used. I cannot give a list of the experiments that I made in that case, any more than I could in any others when I have made an invention. I think I tested the value of the invention in various ways, by fastening the binding straps apart either by tying them over the ends of the blankets, inserting a rigid spreader, and in other ways; but in all matters of preliminary experiment, I never fix them in my mind and cannot retrace the various steps at which I arrived, either at conclusions or practical results, and besides at this time I had either a regiment or brigade of men upon my hands, and but little time to give to the thought or recollection of the experiments, but I fully demonstrated the practical effect of the invention as I have before stated. I talked with a few of my line officers about it and otherwise kept it to myself unless I mentioned it in some letters to my friends at home.

Int. 7. In making these preliminary experiments will you state of what material the rigid bar or spreader consisted.

A. In all preliminary experiments it consisted of wood, although from the first my intention was to employ some kind of plated metal as well as wood, as I never intended to confine myself to any particular kind of material for the bar.

Int. 8. After your discharge from the U. S. Army, please state what further steps, if any, were taken by you in regard to this invention; please state fully on reply and at large.

A. After my discharge as stated in the early part of 1865, I commenced looking around to find some man who would take an interest in it and furnish the money to obtain a patent, as I had not the means to do it myself. I talked with several parties in relation to it, and explained and illustrated it to them; no one did take an interest in it. Not long after my return I had several of the spreaders or rigid bars made, and those I think were made by my son H. K. Porter. I was also engaged from the time I left the army upon perfecting patterns for sleigh and carriage irons, which I commenced before entering the army. These latter patterns and the business growing out of them had engrossed a very large portion of my time from then until within two months of the past. In the last part of 1865 or early part of 1866, I became connected with Mr. O. L. Marston, of Bangor, Maine, in relation to the sleigh and carriage irons, he furnishing the money to carry on the business in New York; I urged upon him to furnish the money to take out a patent for the straps also; I explained the invention to him as I had

my return; I then made some of the straps of which he had one and used it. I subsequently took the necessary steps and secured the patent here mentioned in this deposition, Mr. Marston furnishing the money and taking an interest in the patent.

Int. 9. State what part of the invention was made by H. K. Porter, one of the patentees mentioned in said letters patent.

A. The rigid bail or handle.

Defendant now offers in evidence a certified copy of the file wrapper and contents in the matter of the letters patent, granted T. W. Porter and H. K. Porter, dated Dec. 22d, 1868, No. 85129 and marked Exhibit 22, E. H., N. P.

(Objected to as immaterial and incompetent.)

290 *Defendant's Exhibit No. 22.—E. H., N. P.*

GEORGE CROUCH }
vs.
WILLIAM ROEMER. }

United States circuit court, district of New Jersey. In equity.

The United States Patent Office. To all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the files of this office, of the file wrapper and contents in the matter of the letters patent granted T. W. Porter and H. K. Porter, dated December 22d, 1868, No. 85129, for "shawl and blanket straps."

In testimony whereof I, J. M. Thacher, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this seventeenth day of October, in the year of our Lord one thousand eight hundred and seventy-four, and of the Independence of the United States the ninety-ninth.

[L. S.]

J. M. THACHER,
Acting Commissioner.

BOSTON, *September 2d*, 1868.

HON. ELISHA FOOTE,
Commissioner of Patents, Washington, D. C.:

Herewith please find petition, specification, oath and cert. for fifteen dollars in application of myself and H. K. Porter for blanket and shawl straps; model and drawings being already forwarded.

Very respectfully, your obedient servant,

T. W. PORTER,
11 *Hawkins Street.*

To the Commissioner of Patents of the United States of America:

Your petitioners pray that a patent may be granted them for the invention set forth in accompanying specification.

Signed at Boston, in the State of Massachusetts, this first day of September, 1868.

T. W. PORTER.
H. K. PORTER.

To all whom it may concern:

Be it known, that we, T. W. and H. K. Porter, of Boston, in the county of Suffolk and State of Massachusetts, have invented a new and

useful improvement in shawl and blanket straps, and we do hereby declare that the following is a full, clear and exact description of the construction and operation of the same, reference being had to the accompanying drawings, making a part of this specification in which—

Figure 1 is a perspective view of our invention. and

Figure 2 is a tranverse section taken on line A B, figure 1.

Similar letters of reference indicate corresponding parts in the several figures.

291 The nature of our invention consists in combining a rigid bar with the securing straps and bail; the bail being riveted to the bar, and the straps passing between the bar and bail; also, in enclosing in the bail a metallic rod for the purpose of stiffening the bail. In the drawings *C C* are the enclosing straps, by which the article to be carried is enclosed and secured; D is the bail, which may be secured to the bar by rivets, as shown, or by any other suitable means; *a* is a metallic rod enclosed in the rounded portion of bail D. This rod may be extended by a flattened portion, forming loops, through which the straps *C C* could pass, and in this event the bar E could be omitted.

By the usual method of constructing shawl straps a band of leather is employed in the position occupied by bar E, in which case the weight of the article carried tends constantly, by the strain upon bail D, to draw the straps *C C* together, thereby slackening the band and allowing the bail to bend over the fingers and cramp and pain them.

The substitution of the rigid bar E, which may be of wood or metal, for the common flexible leather band, reduces the cost of the article, while it renders it of greater usefulness, and the metallic rod *a* also tends to keep the bail D in the form most conducive to comfort in carrying.

Having thus described our invention, what we claim as new and desire to secure by letters patent is—

1st. In combination with bail D and straps *C C*, the rigid bar E, substantially as described and for the purposes specified.

2nd. Inserting a rod, *a*, in bail D, substantially as described and shown.

T. W. PORTER.
H. K. PORTER.

Witnesses:
HENRY HYDE SMITH.
HERBERT T. WHITMAN.

STATE OF MASSACHUSETTS,
County of Suffolk, ss:

On this first day of September, A. D. 1863, before me, the subscriber, a justice of the peace, personally appeared the within named T. W. and H. K. Porter, and made solemn oath that they verily believe themselves to be the original and first inventors of the herein described improvements in shawl and blanket straps, and that they do not know or believe the same was ever before known or used, and that they are citizens of the United States.

HENRY HYDE SMITH,
Justice of the Peace.

UNITED STATES PATENT OFFICE,
Washington, D. C., November 10th, 1863.

T. W. and H. K. PORTER, *Boston, Mass.:*

SIR: Please find below the communication of the examiner in charge

in the matter of your application for patent for "shawl and blanket strap," filed September 4, 1868.

Very respectfully,

Commissioner.

Examiner's room, No. 93.

The application above referred to has been examined. Claimant is informed that the insertion of rods or wires into handles and balls is very common, and has long been in practice. The second claim is therefore refused, for want of novelty.

L. I. FARWELL,
Examiner.

292 BOSTON, MASS., *November 17th*, 1868.

Hon. ELISHA FOOTE,
Commissioner of Patents, Washington, D. C.:

In the matter of our application for letters patent for improvement in blanket straps, we hereby amend our specification by striking out the second claim therein contained.

Very respectfully, your obedient servants,

T. W. PORTER,
H. K. PORTER,
No. 11 Hawkins street.

BOSTON, MASS., *December 7th*, 1868.

Hon. ELISHA FOOTE,
Commissioner of Patents, Washington, D. C.:

Herewith please find cert. for twenty dollars, being final fee in application of T. W. and H. K. Porter for letters patent for blanket and shawl strap, which has been allowed.

Very respectfully, your obedient servant,

T. W. PORTER.

1868.
No. 85129.
Farwell. 76-24.

T. W. Porter and H. K. Porter, of Boston, county of Suffolk, State of Massachusetts; shawl and blanket straps.

Rec'd	September 4th, 1868.
Petition	" " "
Affidavit	" " "
Specification	" " "
2 drawings	" 3d, "
Model	" " "
1 cert. dep. $15.00 cash	" 4th, "
1 add'l fee cert., $20.00 cash	December 9th, "
Examined, Farwell	November 23th, "
2 issue, Grinnell	" 27th, "
3 patented	December 22d, "
Recorded vol. page circular	" 23d, "
Rejected	November 16th, "

T. W. PORTER,
Boston, Mass.

Ex'd.—C. C. W.
Rec. 471—15

293 Int. 10. Please state why you did not apply for letters patent for your invention at an earlier date than Sept. 1st, 1868.

(Objected to as immaterial.)

A. For the reason that I had not pecuniary means of my own and was compelled to wait until I found some one who was ready to advance the requisite funds, as I have been obliged to do in almost all cases when I have taken out patents for my inventions.

Int. 11. Prior and up to the time of your making this invention, what had been the state of the art in regard to the making straps of this description?

A. So far as I had ever observed, known or heard or had any knowledge, they were made with the two binding straps passing through the loops at the ends of a limber leather strap and with a limber leather bail either flat or round attached to the strap which extended from one binding strap to the other.

Int. 12. Whether or not, from the time you first made the invention up to the time of applying for letters patent, shawl or blanket straps made by you or under your direction, embodying the principle secured by said letters patent, were used by any party or parties; if so, please state whom.

A. They were not from the date of the invention, but were used, as I have before stated, by Mr. Marston and myself.

WEDNESDAY, *Aug. 25th*, 1875—a. m.

Cross-examination:

X Int. 13. What was your business prior to your entrance into the Army?

A. Principally practice of law and soliciting patents and something in the way of inventing.

X Int. 14. Where did you practice law and solicit patents?

A. Bangor, Maine.

X Int. 15. How long had you practiced law and solicited patents prior to 1861?

A. I had been in the practice of law for myself somewhere about five years, soliciting patents for a less time.

X Int. 16. Did you resume these branches of business on your discharge from the Army?

A. Not to any material extent; I gave my attention mainly to the development of my improvements in sleigh and carriage irons.

X Int. 17. Where did you locate?

A. I did not locate; I returned to my family, who before, during, and some time after the war resided in Bangor.

X Int. 18. How soon did you first have a place of business, and where was it?

A. As soon after my return in 1865 as I could attend to the scattered fragments of my business which I left when I went into the Army, I fitted up a shop attached to my own house, where I worked most of the time until I left Maine for Massachusetts, which was, I think, in the spring of 1866 or 1867, I am not now certain; for a month or two before I came here I had a shop in Mason's block, in Bangor, Me., where I worked on said carriage irons. In the early part of 1865 I was in H. L. Mitchell's office a short time; about all the business I attended to there was in relation to the settlement of accounts of those who had been in the Army, a portion of which, I think a large portion, was for
291 widows and orphans whose husbands and fathers had been in my regiment; all the business I did in that office was but trifling.

X Int. 19. Where and when did you next have a place of business?

A. I came to Boston, as I have stated, in the spring of 1865, and hired a room in Baldwin's block, on Friend street. My principle business there was finishing and preparing said sleigh and carriage irons for market. I also did some patent business or solicited some patents for my former clients in Maine.

X Int. 20. Where and when did you next have a place of business?

A. In the fall of that year I wanted more room on account of the increase of my business, and I removed to Congress st., Boston, in Cook's block. I pursued the same business there, with the addition that I invented, perfected, and patented, with the aid of James Stewart, a coupling for line shafting. I also invented and perfected and patented in connection with Mr. Marston various irons for sleighs and carriages; I think there were three patents embracing some 15 or 20 distinct devices. I also made several inventions and improvements for the man of whom I hired room and power, E. D. Washburn, for which he allowed me something like 75 or 100 dollars in my rent.

X Int. 21. When and where did you next have a place of business?

A. The next spring after I went there Washburn wanted the room that I had, and we, Marston and myself, removed to No. 11 Hawkins street.

X Int. 22. How long did you remain there and did you carry on the same business while there?

A. We remained there from two to three years; we carried on the same business there, with the addition that I made other inventions and took out other patents in connection with Mr. Marston or other parties, also extended my business of soliciting patents among my clients in Massachusetts.

X Int. 23. When and where did you next have a place of business?

A. Five years ago last fall we needed more room, and removed to our present place of business, which is 39 Bowker street, Boston.

X Int. 24. During the time from 1865 to the present time, did you carry on business at any other places than those named?

A. No, I did not.

X Int. 25. What was your place of business when you applied for letters patent for shawl straps dated Dec. 22, 1868?

A. It was at 11 Hawkins st., as before stated.

X Int. 26. Were you in Washington in 1868?

A. I cannot state. I had usually been in Washington once in two years, but I may have been in 1868.

X Int. 27. Were you in Washington in 1869?

A. I cannot state what years I have been in Washington since the War, except that I was there in 1873 and in 1874, and some time in 1865 or 1866; but I know that I have been there at other times; I fix the dates that I have given by certain events that I was engaged in; I might possibly give the dates of all the times that I have been there by examining papers that I have and will do so if desired.

X Int. 28. Where did you stop while in Washington?

A. As I never stopped at a hotel in Washington, as I am usually there some weeks and can be just as comfortable at an expense of $5 a private house, I always board at some boarding-house, and usually give the name and number in every instance, perhaps some of the times that I stopped at a boarding-house on Pennsylvania avenue, cannot give
285 the number; think that was the only street I stopped on that
way. I have twice or more than stopped at a house on the street which runs past the west end of the Patent Office. The house is two or

three squares above the Patent Office on the east side of the street and has two or three sycamore in front of it; don't know the number and don't remember the name of the family. I once stopped at a house near this; don't remember the number, street, or name of family. The last time I was in Washington I stopped at a house one square west of this; it was a corner house on the southerly side of the street that passes the southerly front of Patent Office.

X Int. 29. Did you issue any cards or circulars of your business with your address in Washington printed on them?

(Objected to as immaterial and irrelevant.)

A. No, I have not.

X Int. 30. Did you not issue a card as solicitor of patents with your address as of Washington, D. C., printed thereon?

(Objected to as immaterial, irrelevant and incompetent.)

A. I have never held myself out in any way whatever as being located in Washington permanently or having a regular and established place of business in Washington, and the only communications that I have had with my clients or with the public as hailing from Washington, has been the usual correspondence between myself and my clients, whom I have been there, as before stated, and I have made it a practice to write all my clients for whom I was doing business there while in Washington, as I had leisure after office hours for that purpose, and they are anxious to know the result of their cases at the earliest moment. I have issued several cards, two or three cards while in the patent business, and the words Washington, D. C., may or may not have been on those cards. I do not now recollect whether they were or not, but Washington, D. C., was never placed on my cards for the purpose or with any intent to lead the public to believe that I was located in Washington, and I never have been except temporarily, as before stated.

X Int. 31. When did you first learn of George Crouch's patent for shawl straps of Sept. 29th, 1868?

A. It was some weeks, perhaps a month or two, after I had received letters patent for my own invention of that nature.

X Int. 32. How did you learn of it?

A. Some party stated to me that blanket straps similar to my own were on sale at a store on School st., Boston, just below the Parker House. I came up Tremont st. and then down School st. till I came to a gents' furnishing store, so called, near the 5 cent sav'gs b'k building. I went in, told the proprietor that I understood he was selling blanket straps with a rigid bar, and that as I had a patent upon it, I would like to see them and ascertain from him who made them; he said they were made by Crouch and Fitzgerald, of N. Y., and that he believed that they claimed to have a patent on them and he passed some of them out on the counter; we looked at them and found them, stamped "patented," with the date of the patent on them. I took the data, passed across the street to the office of Col. Carroll D. Wright, looked at his patent office reports, and found the date of the patent and claim. I then wrote to Messrs. Crouch & Fitzgerald upon the subject; I told that I have a reserved copy of that letter, dated Jan. 5th, 1869.

X Int. 33. Will you allow that reserved copy to be put in evidence in this case?

A. I have no objection whatever.

(Witness produces the copy; same is marked for identification.)

X Int. 34. Did you receive a reply to this letter?

A. I think I did.

X Int. 35. Have you it now?

A. I have looked for the letters, of which I think there were two, which I received from Messrs. Crouch & Fitzgerald, but have failed to find them, and as I preserve only such letters as I think may be useful, and from the tone of their last letters, supposing that all correspondence had come to an end, I think I have destroyed them.

X Int. 36. State the contents of the reply to your first letter.

(Objected to as immaterial, incompetent.)

A. It amounted in substance, if I recollect right, to a request to send them one of my shawl straps.

X Int. 37. Did you comply with the request?

(Objected to as immaterial, incompetent.)

A. I did, also wrote them a letter of transmittal.

X Int. 38. How did you send the strap?

(Same objection.)

A. I don't recollect how I sent it. I think by express, but am not positive. I know they received it.

X Int. 39. Did you keep a copy of the letter of transmittal?

(Same objection.)

A. I did.

X Int. 40. Have you it now and will you produce it?

A. I have it and will produce it.

(Witness produces copy of letter and same is marked for identification.)

X Int. 41. Was the strap returned?

A. It was not. I went to their place and obtained it.

X Int. 42. When did you go there?

A. Unless I find the last letter I received from them, I cannot fix the time. I think it was the next summer or the next but one thereafter.

X Int 43. Who did you see and what took place?

A. I first called at their place down near City Hall park; I think it was little below there; was directed to their store up Broadway, called there once or twice; had an interview with the proprietors; talked the matter over quite fully. They questioned me at considerable length as to the time and circumstances of my making my invention. I answered all their questions and answered them fully. I also questioned them as to the date of their invention, but they declined to give any information whatever on the subject, and I could learn nothing from them as to the time when they claimed to have made their invention. We discussed the whole matter at considerable length; they [illegible] would take for our patent. I told them [illegible] conflicting rights which must either be settled [illegible] or else have both patents merged in one party. [illegible] sent for $1,000; they said they would consider the matter and [illegible] me; and I then left them. While I was in N. Y. [illegible] to their factory and obtained of the foreman or [illegible] which I had sent them.

X Int 44. Where was their factory and why did you go there?

A. Their factory was situated, I think, somewhere [illegible] than their Broadway store and off to the left of Broadway, going
297 up, being between Broadway and North River. I don't recollect the street, but think it was designated by some number; as you stood in the street, looking [illegible] you would be found towards the battery. I [illegible] at the Broadway store that my blanket strap was over at the factory.

X Int. 45. Who so informed you?

A. I don't remember. I think it was either Mr. Crouch or Fitzgerald, but I am not certain.

X Int. 46. Were they both present at the Broadway store when this interview took place?

A. As before stated, I was in the store several times; think I saw them both and think I saw them both together, but could not state positively that such was the fact. They were utter strangers to me, which makes it more difficult to fix those facts in my mind.

X Int. 47. Whom did you see at the factory besides the foreman?

A. I could not designate any one else; think he sent by some one else for the blanket strap, who brought it in, but am not positive about that.

THOMAS W. PORTER.

Subscribed and sworn to before E. Hutchinson, notary public, August 24th, 1875.

Recess until 2 p. m.

Deposition of CHAS. L. MARSTON.

(Complainant's counsel objects to taking of Marston's testimony, on the ground that in the answer herein it was not alleged that he had any knowledge of the prior use of the thing patented.)

Int. 1. State your name, age, residence, occupation, and place of business.

A. Charles L. Marston, 49 years, Bangor, Me.; photographer, in business in Bangor and Boston both.

Int. 2. Whether you are acquainted with T. W. Porter, one of the witnesses herein; if so, for how long a time you have known him?

A. I have known him 17 years, I think.

Int. 3. Whether or not you have been associated in business with said T. W. Porter; if so, when did it commence and what was it and are you still associated with him in business?

A. I have been associated with him in business; it commenced in 1865 or 1866, I think first part of 1866. It was carriage irons, and I am still associated with him in business.

Int. 4. Whether or not you have an interest in the letters patent granted T. W. Porter and H. K. Porter, Dec. 22d, 1868, No. 85129, the same being for a shawl and blanket strap?

A. I have.

Int. 5. What interest have you; when and how did you acquire it?

A. One-half interest; when the patent was granted, I acquired it by paying the expenses of obtaining the patent, models, fees, &c.

Int. 6. When did you first learn of this invention of said T. W. and H. K. Porter for which letters patent were granted as aforesaid, and from whom?

238 A. The first that I learned of it was by a letter I think from T. W. Porter while he was in the Army; this referred to a shawl or blanket strap. After T. W. Porter first made a strap, I first learned of H. K. Porter's improvement on it.

Int. 7. Have you that letter from T. W. Porter now in your possession?

A. I don't know whether I have or not.

Int. 8. When did you next learn about this invention, and what was said or done, if anything, by you and Mr. T. W. Porter?

(Objected to as incompetent.)

A. I next learned of it when he returned from the Army in conversa-

tion. He was talking about it very often about getting a patent, and he made some straps.

Int. 9. When was this. Fix the date as near as you can.

A. I think it was the first part of 1866.

Int. 10. What straps did he then make? Describe them fully and minutely. Also how many to your knowledge did he make at this time?

A. He made a strap with a wooden bar, had loops of leather on each end for the blanket straps to run through, and a leather handle; said I can't say whether there is a wire in the handle or not, but I have the strap at home, which I would have brought with me, if I had known it was needed. I don't know how many he made at this time.

Int. 11. What induced you to pay for the taking out letters patent for this invention, and the expenses of models or other expenses, if there were any?

(Objected to as immaterial.)

A. It was calculation to make money on it.

Int. 12. Whether or not before the patent was applied for Mr. T. W. Porter explained to you what he had invented and for which he desired letters patent?

(Objected to as leading.)

A. He did a number of times.

Int. 13. What has been done with said shawl or blanket strap so made for you by said Porter in 1866?

A. We have done nothing with it as to manufacturing.

Int. 14. To what purpose has this shawl or blanket strap been applied, if any, by you or any other person, to your knowledge since it was made for you as aforesaid by said Porter?

A. I have used it for carrying my overcoat and blanket.

Int. 15. Whether or not it has been in use by you from that time to the present?

A. It has.

Int. 16. What did Mr. Porter state to you at the first interview or interviews in regard to this blanket or shawl strap for which letters patent were afterwards granted?

(Objected to as incompetent.)

A. It would be impossible for me to give the exact words. I give the inference or what I understood about it.

Int. 17. Give the conversations as near as you can.

(Objected to as incompetent.)

A. From what he said I understood that he considered it one of the best things for a small thing that he knew of. He done up a shawl to show me how nice a bundle it would make, instead of having it done up with the old strap.

Int. 18. Had he a strap at the first conversation you had with
299 him after his return from the U. S. Army, and did this strap have a stiff or rigid bar, instead of the old style of straps of that character?

A. I think he had not a strap at this time.

Int. 19. Please give the conversation, then, which took place between Mr. T. W. Porter and yourself in reference to this kind of a strap before he had made any, or before you had seen any, which he claimed to have made.

(Objected to as incompetent.)

A. He described it to me how he intended to make it, by having a rigid bar made of wood or metal, and illustrated how it would make the bundle straight, and not come up and pinch the fingers. I suggested to

him to have another bar underneath to keep the bottom of the bundle level and not to have it sag. I cannot give all he said about this patent, as he was at me about this patent or that patent all the time, and it has cost me a good deal of money, which I have put for him for the patents.

Int. 20. Whether or not he desired you to assist him in furnishing money to take out this patent; and, if so, for how long a time, before you did furnish the necessary funds for so doing?

(Objected to as incompetent, immaterial.)

A. He did desire me to assist him with money, and I think it was over a year after I told him I would furnish the money that he procured the models and sent them on.

Int. 21. Whether or not said T. W. Porter was engaged in any other business at this time; and, if so, what? if you know?

A. He was; he was engaged in making patterns for carriage irons, inventing something all the time.

Int. 22. Whether or not, to your knowledge, said T. W. Porter had the necessary money or means for going forward and taking out letters patent for this invention before you agreed to furnish money sufficient?

A. I think not. I lent him money at that time to get to Boston with his family.

Int. 23. Before you saw any strap made by said T. W. Porter, could you or not, from the description given you by said Porter in regard to his said improvement in shawl and blanket straps, have readily made one?

(Objected to as immaterial, incompetent.)

A. I could.

Cross-examination:

X Int. 24. Have you described as fully as you can the straps testified by you as made by T. W. Porter?

A. I don't know whether I could or not; I can further state that the loops were riveted to the bar, and also the handle or bail was riveted to the bar.

X Int. 25. Did you see them made?

A. Yes, sir.

X Int. 26. Who made them?

A. T. W. Porter; that is, he made the wooden bar, got the straps and put them together.

X Int. 27. Did he make the handles and loops?

A. No. He got them made out somewhere; when he got the straps, brought them in together.

X Int. 28. Where and of whom did he get the handle, straps, and loops?

A. I don't know; I could not tell you.

300 X Int. 29. When was his?

A. The first part of 1866.

X Int. 30. Are you positive?

A. I think I am right; I am as positive as I can be without some dates that I could swear by.

X Int. 31. Can you state when you first used this shawl or bundle-strap made for you by T. W. Porter, and how and where?

A. I first used it to carry a bundle to Philadelphia. I got a piece of rubber cloth and made it answer for a valise. I put my clothing in a bundle and wrapped the cloth around it and then put it in the strap. I think it was March, 1866.

CHAS. L. MARSTON.

Subscribed and sworn to before E. Hutchinson, notary public, August 24th, 1875.

Deposition of HENRY K. PORTER.

Int. 1. State your name, age, residence, occupation, and place of business.

A. Henry K. Porter; 29 years; 75 Chambers street, Boston; machinist, 39 Bunker street, Boston.

Int. 2. Are you the son of T. W. Porter, and are you mentioned in letters patent No. 85129, Dec. 22d, 1868, for a shawl or blanket strap?

A. I am.

Int. 3. What part of the application for letters patent for an improvement in shawl and blanket straps, filed Sept. 1st, 1868, did you invent, and what part did T. W. Porter invent?

A. I originated the idea of putting a rigid bar in the handle of the strap; the rigid bar would be a wire in that case. T. W. Porter invented the rigid bar; I had nothing to do with the rigid bar.

Int. 4. When was this improvement or invention of T. W. Porter brought to your knowledge, and how; relate all the circumstances attending the same.

A. He first explained the invention to me after returning from the army, in the early part of 1865. He said he had invented it during the time when he was in the army.

(So much of the witness's answer as relate to conversations of T. W. Porter and others objected to as incompetent.)

He explained the invention to me; it was something that any one could understand with little explanation. He afterwards made a couple of sticks with a view of making the straps. The sticks were turned; there were bunches left on the sticks; and after the sticks were turned these bunches were planed down flat. There were two bunches on each stick; the two bunches were put about as far apart where the straps of a shawl-strap should be. After the sticks were turned down this left two wider places in the stick, and through each one of these places there bored two holes, with a view of riveting on a loop on each place to put the straps through. I think I turned these sticks myself, but I am not positive of that. The sticks I remember perfectly well, and I could make others almost exactly like them.

Int. 5. When was this; give the date as near as you can when these sticks were so made, as described in your last answer?

A. It was in the early part of 1865.

301 Int. 6. Whether or not T. W. Porter at that time contemplated applying for letters patent for said improvement, and what, if you know, was the reason why he did not apply at an earlier date than Sept. 1st, 1868?

A. He did so contemplate. One reason he did not apply at an earlier date was that he thought he had not the invention perfected; his ideas always run on a wooden bar, and his first idea, as I have said before, was a round bar which was rather clumsy; he afterwards made some straps with flat bars, these bars being [illegible] way of a width. He claimed to have [illegible]

Int. 7. Whether or not, to your knowledge, he did this, during the time and up to Sept. 1st, 1868, of himself, or he could [illegible] until furnished by Mr. Chas. T. Bonner?

A. Of course I have no positive knowledge of his manner of action at all.

Int. 8. Whether or not you were possessed of sufficient funds for ap-

plying for said letters patent up to Sept. 1st, 1868, the time application was made?

A. I was not.

Int. 9. When were these straps made by T. W. Porter—those with flat bars hereinbefore by you mentioned?

A. I could only guess at the date of that.

Int. 10. Please give it as near as you can without guessing.

A. We moved to Boston in June, 1866, and I should think they must have been made within a year from that time.

Int. 11. Are you positive it was after June, 1866, that is, after you had moved to Boston?

A. There is nothing there that I can swear to in regard to the date; as I said before, it is all guess-work.

Int. 12. From the description first given you by T. W. Porter of the improvement which he had invented in shawl and blanket straps, could you have readily made one?

(Objected to as immaterial and incompetent.)

A. I could without any difficulty.

Int. 13. Did you ever have such a strap; and, if so, when did you first have one embodying the principle for which application was made for a patent by T. W. Porter, or yourself, Sept. 1st, 1868, and have you or not used it from time to time up to the present?

A. I never owned one of them; only two made to my knowledge, one of which went to the Patent Office, and the other Mr. Marston had.

Not cross-examined.

HENRY K. PORTER.

Subscribed and sworn to before E. Hutchinson, notary public, August 24th, 1875.

Deposition of GEORGE A. EASTER:

Int. 1. State your name, age, residence, occupation, and place of business.

A. Geo. A. Easter; 39 years; residence, 362 Bunker Hill st., Charlestown district, Boston; occupation, salesman; place of business, No. 7 Tremont st., Boston.

302 Int. 2. Whether or not you are acquainted with Mr. Seth H. Hatch, of East Somerville, Middlesex County, Massachusetts, and if so, how long a time have you known him?

A. I have known him for 20 years, but I will put it for over 15 years to make it sure.

Int. 3. What has been the business in which you have been engaged or employed for the last 15 years?

A. That is my business. I have been with Easter & Winship for the last 15 years. My father is the head of the house. I am not with them now and have not been for last 3 weeks or a month.

Int. 4. Please state what is the article you now hold in your hands, and if you know, by whom made and when?

A. It is a shawl strap or bundle strap with an iron or steel bar through the center of it, an iron or steel bar, I could not say which, without ripping apart. I was foreman in Easter & Winship's trunk and bag manufactory; store, No. 7 Elm st., Boston. I called on Mr. Seth Hatch, being one of my workmen, to cut out and fit up a shawl or bundle strap for me, which is the strap I now hold in my hand, marked W. C. G., No. 1. Mr. Hatch cut that strap and fitted it up, that is pasted it together, stitched the bandle, will not swear whether he put those rivets in or not,

or whether I did; he made the proposition to put in an iron or steel bar, a stiff bar you may say, which I acceded to; I then took and stitched the bar into the leather strap; this was in the summer or fall of 1866. I can't give the date or the exact time.

Defendant here introduces a shawl strap or bundle strap, marked Exhibit No. 23, R. H. N. P., and offers same in evidence.

Int. 5. Whether or not you have seen any other straps made by said Hatch similar to the one here produced and offered in evidence, and marked Exhibit No. 23; if so, when and where and how many of them have you seen?

A. I have got one at home, which he made for me, I think the same kind of strap which Mr. Hatch made himself, while we were both in the employ of Easter & Winship, by my orders; that is all I have seen.

Int. 6. For what purpose has this strap been used by you or by others, if you know?

A. My wife has used it, and it has been used in my family, for carrying shawls or bundles or waterproof cloaks or anything of that kind it is necessary to carry.

Int. 7. Whether or not the rigid bar in either of these straps extended beyond the loops through which the binding straps pass?

A. I could not tell without looking.

Int. 8. Prior to the time this strap, marked "Ex. 23," was made for you, what had been, so far as you know, the existing state of the art with regard to straps of this character?

A. I never knew where I could buy a shawl-strap at that time. If I had, I should not have made one, as I could have bought one a great deal cheaper. There were but very few in the market, that I knew anything about at that time. I never saw any shawl-straps in the market in my lifetime before, for sale up to this time and previous to 1866. I never came in contact with them.

Int. 9. In what business were Easter & Winship at that time employed?

A. I will not answer for Easter & Winship, but I will answer
303 for myself. They were in the manufacture of trunks and bags and I was foreman at a factory.

Int. 10. Whether or not this strap and the one similar to it which have been mentioned have been in use by you and members of your family since the time they were severally made by Mr. Hatch?

A. They were not made by Mr. Hatch any more than they were made by me; we both made this strap, marked "Exhibit 23"; that is, he made part of said strap and I made part. They have not been in use in my family all the time since then.

Cross-examination by H. B. BARNUM:

X Int. 11. Have you been in the employ of Easter & Winship continually for the last 15 years?

A. I have not been in the employ of Easter & Winship, because it was Samuel Easter who is the head of the house. My father, Mr. Samuel Easter, has been the head of the house, but have been in the employ of Samuel Easter and Easter & Winship the last 15 years.

X Int. 12. Where and at what were you employed prior to that time?

A. I have been in the employ of my father, Samuel Easter, and his partners ever since I left school until the last month.

X Int. 13. When was the firm of Easter & Winship formed?

A. I could not tell you, sir.

X Int. 14. When to the best of your recollection?

A. I think the firm was formed somewhere in the neighborhood of 1860 to 1865. I think so.

X Int. 15. When did you become foreman of their shop?

A. I cannot give the date.

X Int. 16. When to the best of your recollection?

A. I was foreman for them at different times, went on the road selling goods part of the time; was in their employ all of the time.

X Int. 17. When did you first become foreman of their shop?

A. It would be impossible for me to give the dates, without hunting up the records which I have at the store.

X Int. 18. When to the best of your recollection?

A. I think it was in 1858.

X Int. 19. How long did you then remain foreman?

A. I have been foreman for them off and on ever since; also traveling agent on the road, off and on, for them all my lifetime, until within a month.

X Int. 20. Question 19 repeated.

(Objected to by defendant's counsel on the ground that witness has already answered so far as he was able.)

A. I don't know.

X Int. 21. State what times between 1858 and 1867 you were in the shop and at what times you were otherwise employed?

A. It is impossible for me to answer that question, as I have no records and no dates, and I will not trust to my memory to answer on those dates.

X Int. 22. When was Seth Hatch first employed by Samuel Easter or Easter & Winship.

A. Some time previous to the breaking out of the rebellion in 1861.

304 X Int. 23. Was he continuously in the employ of these parties from that to the present?

A. I cannot answer. I don't know.

X Int. 24. Do you recollect of his ever leaving their employ?

A. Yes, sir.

X Int. 25. To the best of your recollection when was that?

(Objected to as immaterial and irrelevant.)

A. He went to the war as a saddler in a battery or artillery company. I don't know which.

X Int. 26. When was Exhibit No. 23 made?

A. In the summer or fall of 1866.

X Int. 27. Do you know whether it was summer or fall?

A. I could not say which.

X Int. 28. Are you sure it was not in the spring of 1866?

A. Yes, sir.

X Int. 29. Why are you sure?

A. From certain circumstances that I remember, I know it was in the summer or fall of 1866.

X Int. 30. What did you do with that strap, Ex. 23?

(Objected to as being too indefinite and therefore incompetent.)

A. I used it.

X Int. 31. Give the history of strap, Exhibit 23, from the time it was made up to the present time?

A. I can give you the history of it, as long as it was in my possession, and until it was delivered to Mr. Roemer, the defendant, in N. Y. It was made by me and Mr. Hatch, and used in my family for a short time after it was made. My wife then gave it to a young lady for a consideration;

it remained in her possession until I called for it, as near as I can recollect; I should say it was about a year ago, perhaps a little more than that. I can't tell the exact time. I then brought it over to the store and gave it into the possession of my father. I think he delivered it to Mr. Roemer.

X Int. 32. How long after it was made was it before it was given to the young lady?

A. I could not say. I have no idea how long it was; it might have been one month, might have been six months, might have been a year. I did not know that my wife had disposed of it, until I went home to get it; she then told me where the strap was and I went to the lady's house and got it.

X Int. 33. What was the lady's name?

A. Her name is Mrs. Holmes now; her maiden name was Davis. I could not say whether she was then married or not; she lived at Boston, Charleston District.

X Int. 34. Where does she live now?

A. I could not say, but I think she lives in Charlestown District; could easily find out.

X Int. 35. What is her husband's name?

A. Bart Holmes; clerk for some sugar refinery on Central street, Boston.

X Int. 36. When was the second strap made of which you have testified?

A. I can't remember the date.

X Int. 37. When to the best of your recollection?

A. It might have been a year or so after the first one was made; may not have been so long; may have been longer or less; might have been about a year; cannot recollect about it so as to give the date.

X Int. 38. Is that the best answer you can give?

A. Yes, sir.

X Int. 39. How came you to have the second strap made?

A. Because I wanted it; one or more straps is not too many to have in the family.

X Int. 40. Have you in your testimony here fixed the date when strap Ex. 23 was made, as well and as near as you can?

A. I have stated the date as near as I can; perhaps Mr. Hatch can state with more definiteness in regard to the date.

GEO. A. BASTER.

Subscribed and sworn to before R. Hutchinson, notary public, August 25th, 1875.

NEW YORK, Sept. 7th, 1875.

Met pursuant to adjournment. Present, counsel as before.

SETH H. HATCH, a witness called on behalf of the defendant, being duly sworn, deposes and says as follows:

Q. 1. What is your age, residence, and occupation?

A. My age is 54; East Somerville, Massachusetts; trunk maker.

Q. 2. Counsel showing witness a shawl-strap, asks: What is that?

(Complainant's counsel objects to this mode of examination as leading in its character.)

A. I call it a blanket or shawl strap or handle strap.

Q. 3. State whether or not you have made [illegible] strap before, and if so, when first?

A. That shawl-strap I made in the fall or winter of 1865.

Offered in evidence and marked Def't's Exhibit No. 27, E. C. W., notary.

Q. 4. What is there in the cross-bar of Exhibit No. 27, that renders it stiff?

A. Iron; one piece of iron extending from end to end.

Q. 5. Look at the shawl-strap marked Exhibit 23, and state whether or not you have seen the same before, and if so, when first?

A. Yes, sir; I cut that strap out and made the handle for it, and Mr. Easter stitched the body part of it. This was in the fall of 1866.

Q. 6. How came you to put iron into this shawl-strap, Exhibit 27?

A. I put it in to make it stiff, and I thought it would make a neater job than to put wood under it or anything else.

Q. 7. When first did you make or see a shawl strap or bundle-holder having a stiff bar?

A. In 1862. I was in the Army; I went out as saddler in a battery from Massachusetts, and I found that my blankets, which I wanted to strap on behind by saddle, were rather unhandy in taking off without straps to hold them together after they were off. I took a front to an old bridle and put a couple of straps through the loops on the ends, and I found in using it that it was loose and come together; I took a piece of hard wood and nailed this front on to the wood
306 and then riveted a handle on to that right through the front and the wood, that made me a stiff blanket-strap. That was the first blanket-strap or shawl strap I ever saw; a stiff bar.

Q. 8. When next and where did you see stiff bar shawl-straps?

A. I made two in 1864, at Franklin, Louisiana; I think it was in 1864. It was either the winter of 1863 or the winter of 1864; that is, between the fall of 1863 and the spring of 1864.

Q. 9. Describe these two.

A. They were made from a steel sabre taken from the rebels—that is, the iron bar that was in them. The blacksmith in the company forged them out the right shape. I made two of them, one for the blacksmith and one for myself, covered the steel with black bridle leather, put a strap in each end, and a handle on the top, riveted through the steel.

Q. 10. When did you return from the Army, and to what place?

A. I returned from the Army in August, 1865, to Boston, Mass.

Q. 11. How many stiff bar shawl-straps did you make between your return from the Army and the time Exhibit 23 was made? and state what became of those you made during that time.

A. I don't know as I could tell how many I have made; but I have made several; some I gave away; some I sold, made for friends who paid me for them.

Cross-examined:

X Q. 12. What battery did you go out with?

A. Second Massachusetts.

X Q. 13. Were you regularly enlisted?

A. Yes, sir.

X Q. 14. Did you remain in that battery during your entire term of service?

A. I did.

X Q. 15. What was your original term of service?

(Objected to as immaterial.)

A. I enlisted first for three years; I re-enlisted in the last of 1863 or first of 1864.

X Q. 16. When did you first enlist?

A. In 1861; I was sworn into the service the last day of July, I think, or the first day of August.

X Q. 17. Where did you first go with your company?

A. Went to Baltimore from Boston.

X Q. 18. How long did you remain there?

A. We were there until the first part of 1862; I couldn't tell exactly; I won't swear positive when we left Baltimore, because I was off on a campaign once through Virginia and Eastern Maryland for six weeks or two months, and then returned to Baltimore again. If you give the time that the Merrimac first came out in Hampton Roads and had a fight with our folks, I can give you the time I left Baltimore.

X Q. 19. With reference to that event, when did you leave Baltimore?

(Objected to as already answered, as far as witness appears able to answer.)

A. I left Baltimore about three weeks before that event; I could swear now that it was in the spring of 1862, as I come to think of it. When I left Baltimore to go to Fortress Monroe was the time that I put the wooden bar on that strap.

307 X Q. 20. How long did you stay at Fortress Monroe, and where next did your company go?

A. That I can't swear to; I can't remember so long ago; we were there some little time; we started from Fortress Monroe to Louisiana; to Ship Island.

X Q. 21. When did you first get into the field?

A. Witness asks: "What do you mean?"

X Q. 22. After you reached Ship Island, where and when did you next go?

A. We didn't land at Ship Island at all.

X Q. 23. Where did you land, and state what places your company went to up to 1864?

A. We landed at New Orleans, the first place; we stopped there a few days, and then went up the river, the Mississippi River; we landed every night at some place on the river; I couldn't begin to tell the names; we went to Vicksburg, Miss., on the Mississippi River, in June, 1863; I think it was in 1863; we remained there a few days and then came back down the river again; we came down the river to Baton Rouge; we stayed there some little time; we had a fight there on the 5th of Aug., 1863; I couldn't begin to enumerate the places in detail; we were up and down the river, between New Orleans and through Western Louisiana, and up the Red River and down again; was at the siege of Port Hudson.

X Q. 24. When did you go up the Red River, and how long were you there?

A. I couldn't give you the date; I was up there twice; the last time I was up under Gen'l Banks at the time of his defeat; we didn't quit up the Red River; we marched up to it from Western Louisiana to Alexandria, and then followed the river up with the army.

X Q. 25. Describe again with particularity the strap you say you made in 1862.

(Objected to as already answered.)

A. It was made from the front of an old bridle—I mean the frontpiece; it was nailed on to a piece of hard wood, a piece of [illegible] an old flour barrel head; this leather strap piece was the front of a bridle; was nailed on to the wood, and then another piece of leather for the

handle was put on with a rivet in each end, with a burr underneath it; a copper rivet and burr, with a strap through each end, through the loops in the front piece.

X Q. 26. How was this handle made?

A. It was a straight, flat piece of leather.

X Q. 27. How did you attach you blankets to your saddle with this strap?

(Objected to as immaterial.)

A. I rolled my blankets up, buckled the straps around them, and then strapped the whole with three straps on the back of the saddle.

X Q. 28. Describe again and with particularity the straps you say you made in the winter of 1863–1864.

(Objected to as already sufficiently answered.)

A. Well, they were made from sabres or swords forged out by the blacksmith, with two holes punched in the steel for the rivets of the handle to go through, covered with black bridle-leather, with a loop in each end and a strap through these loops in each end, the steel running the full length inside of the leather, and the straps on top of the steel, above it; the handle was a flat piece of leather riveted through the steel and the leather that covered it.

308 X Q. 29. In what shape was this bridle leather which you say was used to cover the steel?

A. It was formerly a whole side of bridle leather; it came from a whole side of bridle leather.

X Q. 30. When did you first go into business after your discharge, and where?

A. I went to work in September, 1865, at East Somerville, Mass., for Messrs. Horton & Sons.

X Q. 31. How long did you remain with them?

A. I remained with them off and on when they had work through that winter.

X Q. 32. Where and when did you next go to work?

A. In Boston, for Easter & Winship, in April, 1866.

X Q. 33. What became of the straps you made in the Army?

A. The one that I made with the wood bar, I couldn't tell you what became of that. I took the straps out to put into one of the new ones with the steel bar. The other two, one belonged to the blacksmith and the other to me; we lost them at the Red River fight, when we lost all our things.

X Q. 34. How did you lose them?

A. The rebels captured our battery and took our clothing and all our baggage.

X Q. 35. Where were you at work when you made Exhibit 27?

A. I was to work in Somerville, for Mr. Horton.

X Q. 36. What was his business?

A. Trunk manufacturers.

X Q. 37. Did you make it in their shop?

A. No, sir.

X Q. 38. Where then?

A. I made it in my house where I lived.

X Q. 39. Where did you get the leather?

A. I bought it of Mr. Horton.

X Q. 40. Did you make that strap and all its parts at your house?

(Objected to as calculated to mislead.)

A. Yes, sir; all but the iron and buckles. I don't know whether the straps have been changed or not since it came here. I can't swear to

the straps whether they have been changed at all or not; I don't think they have; they look like my work. But the cross-bar and handle were made by me.

X Q. 41. Can't you recognize the stitching of these straps?

A. I think that I can; I wouldn't swear positive about the straps, but I am pretty sure that I made them; they look like my work, the creasing and all.

X Q. 42. Who stitched the buckles on the straps in Exhibit 23?

(Objected to as immaterial.)

A. That I couldn't swear to; I can swear that I never stitched them on.

X Q. 43. When did you last see Exhibit 27 before it was sent to New York?

(Objected to as implying that Exhibit 27 was sent to New York.)

A. I brought it to New York myself.

X Q. 44. When?

A. I got here this morning about six o'clock.

309 X Q. 45. Has that strap ever been in the possession of the defendant William Roemer or his counsel before to-day?

A. No, sir; nor they never saw it before to-day.

1 p. m. Adjourned to 2 p. m.

2 p. m. Met pursuant to adjournment.

Cross-examination of SETH H. HATCH resumed by Mr. BAKEWELL:

X Q. 46. What kind of iron is it in Exhibit 27?

A. It's a piece of hoop iron, I think; I don't know exactly; a piece of iron such as used on trunks and valises. It may be a piece of steel, for I can't tell; I made some with steel between, thin steel, such as we use in trunks for springs.

X Q. 47. Do you not recollect how you got the iron or steel in Exhibit 27?

A. No; I don't know as I do recollect; they generally have it in trunk shops.

X Q. 48. What kind of metal is it in Exhibit 23?

A. A piece of trunk iron or valise iron; I don't know as I could swear whether it's a piece of steel or iron in this.

X Q. 49. Do you recollect how you got that?

A. Mr. Easter found that.

X Q. 50. Is your recollection clear that Easter found it?

A. My recollection is clear that it come out of a shop he was foreman of.

X Q. 51. Give the date when it was made.

(Objected to as indefinite.)

A. I can't give the date or the month; it was in the fall of 1906; I can swear it was in the fall of that year.

X Q. 52. Is that the best you can state as to the time it was made?

(Objected as already answered.)

A. That's the best I can state.

X Q. 53. Have you made any affidavits prior to this time in reference to the straps testified to by you in this examination?

A. I made an affidavit to that strap, Exhibit 23, and about I made in the Army; but this one Exhibit 27 I did not make affidavit to. I spoke of another strap besides this Exhibit 27, which none of these gentlemen here has seen; I made it for my daughter to put into a trunk for

X Q. 54. How many affidavits have you made and when?

A. Two, I think; one was a year ago, and I really forget when the other one was. I can't seem to remember.

X Q. 55. Was one of them made in this suit?

A. I believe it was.

X Q. 56. What was the other one made for?

A. It was made on the same thing; this patent right business.

X Q. 57. Who procured you to make that?

A. I couldn't tell you the man's name now. Mr. George Easter first introduced me to him and wanted me to go before a lawyer and testify to what I knew about the strap.

X Q. 58. Look at paper now shown you and state whether that is the affidavit you made?

310 That is my signature; that is the one I signed my name to, but whether there has been anything added to it I can't say.

Witness says (looking at affidavit produced): "I don't know as I can read that writing. I signed this affidavit, but they have construed my words here; I don't know whether you would call it construing or not; there is nothing said here about my riveting the handle on. I think the oath was administered to me."

The paper produced is marked for identification Sept. 7th, 1875, E. C. W., notary.

Counsel for defendant desires it to be recorded that after the paper in question was marked for identification, and as counsel was about to read the paper, complainant's counsel tore it out of his hand and tore a piece off of the paper that has been so marked for identification; and counsel also objects to all reference to said paper, first, because it has been mutilated in the manner aforesaid, and also because on the 5th and 6th lines of the affidavit the year 1862 has been changed into 1861, and because the words eighteen hundred and sixty-one have been interlined on the 5th line in what appears different ink and handwriting from the original, and also because as counsel was about to read the affidavit just marked for identification complainant's counsel withdrew his consent to the reading thereof by defendant, though he had handed said paper to defendant's counsel, with the words "that you can read"; and for the causes aforesaid and because counsel has had no opportunity to read said paper, he will object to all reference to it at the hearing as in the nature of a surprise.

To which complainant's counsel responds that he demurs to the term "tore it out of his hand"; that the reason he did take it from counsel, was that counsel was proceeding to read another affidavit attached to that marked for identification, which complainant's counsel then detached, and that it will be time for defendant's counsel to object to the reference of said affidavit of Hatch on the hearing herein, and also to read the same when it's offered in evidence. That complainant's sole object in producing the said paper was to have the witness identify it, and have it so marked for identification.

Defendant's counsel requests the officer to certify that the paper which he marked for identification has been mutilated by complainant's counsel tearing a piece therefrom in the presence of the officer; and counsel objects that it is improper that papers should pass between the complainant and the witness during the examination of the latter, to which defendant's counsel has not access, and counsel insists on his right to read the entire paper that was marked for identification

311 in the condition in which it was when marked, as he is other-

wise deprived of his right to examine the witness on the redirect, on matter that was brought out by cross-examination.

Pursuant to the foregoing request of defendant's counsel, I hereby certify that the paper marked "For identification Sept. 7th, 1875, H. C. W., notary," was a sheet of paper ruled in the style known as legal cap and opening lengthwise, and that after said paper was so marked, counsel for complainant took it from the hands of counsel for defendant and separated the paper at the top where it was folded, retaining one sheet and returning the other to c unsel for defendant.

ERNEST C. WEBB,
Notary Public.

Complainant's counsel denying the right of defendant's counsel to read the paper marked for identification or to examine the witness as to its contents, offers to allow him to do both.

Redirect:

R. D. Q. 59. Look at that paper marked for identification, and state whether or not you find it to be in the same condition now in which it was when you signed it.

A. I don't remember of seeing the dates where they are are marked out in that way; it looks as though they had been changed from 1862 to 1861.

R. D. Q. 60. When did you make that first wooden bar shawl strap?

A. In 1862; in the first part of the year, just before we left Baltimore.

(The paper which has been marked for identification is offered in evidence by defendant's counsel, to which complainant's counsel objects and refuses.)

Defendant's exhibit. Marked for identification, Sept. 7th, 1875, H. C. W., notary.

I, Seth W. Hatch, of Somerville, Middlesex County, Massachusetts, being of lawful age, do depose and say that I am by trade a trunk-maker; that in the fall of the year (1861) eighteen hundred and sixty-one, or thereabouts, but as I am sure it was in the year 1861, I was in the city of Baltimore, Maryland, and in the Army of the United States as a saddler; needing a strap to keep my blankets together, I took two common straps and the front piece to a bridle, run the two straps through the loops at the end, and after use of them once or twice I found the straps draw together in carrying it; to obviate that trouble I took a piece of wood and nailed the bridle front piece to it, making it rigid or stiff. I then took another old bridle front piece and tooping it on the first front piece, which was nailed to the wood, I nailed or riveted it to the first front piece for the purpose of a handle; afterwards, in Louisiana, in Franklin, in the year 1863, in the winter before 1864, I made two straps for the same purpose out of the blade of an old sabre; the blacksmith forged them out, taking the separate pieces as they were forged; I covered them with leather, taking from the battery
312 wagon, making them as follows: The iron was covered with leather the whole length of the iron, leaving two loops, one at each end, for the straps. The handle was riveted on through holes punched through the sabre blade at the time of forging.

These straps I lent at Red River campaign in the fall of 1863. I made another, as nicely as I could, for my daughter, and she put it in the fair

of the orthodox church Somerville for sale. It was one straight piece of iron covered with leather, with three (3) loops and three straps. In the fall of 1866, Mr. Easter (George A. I mean), foreman in the trunk factory of Easter & Winship, came to me and asked me to cut out a shawl strap, which I did, and which is the one marked W. C. G. Dr. 1 & Easter. Mr. Easter stitched the frame part of the strap and I stitched the handle and the buckles on the straps. Subsequent to that a few months, I made, at the request of Mr. Easter (George A.), a nice strap, which Mr. Easter still holds in his possession. Similar to the above I have made them of sheet trunk springs since that time.

SETH H. HATCH,
Suffolk Co., Boston, Mass.

Subscribed and sworn to before me.
July 21st, 1874.

W. C. EVEN,
Notary Public, Justice of the Peace.

R. D. Q. 61. Explain how the second affidavit which you made in this suit was drawn by the officer.

A. I don't know as I could explain. I was taken before an officer or lawyer and he took my evidence.

R. D. Q. 62. State how he took your evidence; by writing down every word you said, or how?

(Objected to as immaterial and irrelevant.)

A. I don't think he took down every word I said; he condensed it to make it as short as he could.

R. D. Q. 63. Look at the paper now shown you, and state whether or not it is a true copy of the affidavit last referred to, as near as you remember.

A. I should think it was, as near I can recollect.

R. D. Q. 64. In describing the wooden bar shawl strap, you stated that the loops were formed on the bridle front, which covered the bar, and in this affidavit of October 17th, 1874, it says "the leather handle had the ends bent over to form a loop." Please explain which of the two descriptions is correct, and how you account for the difference between them.

A. The description in the affidavit is wrong, because the handle was riveted on. I think he made a mistake; that is, he misunderstood me; the loops were on the bridle front.

R. D. Q. 65. The same difference appears between the description given by you in this evidence of the 1864 shawl straps and their description in this affidavit; which of the two is correct, and how do you account for the difference?

A. I think he made a mistake in them both; he calls the whole of the cross bar the handle; that's where he made a mistake.

R. D. Q. 66. If you enlisted in July, 1861, for three years, how came you to re-enlist before the three years had expired?

A. I don't know, unless it was for the bounty. There was an order came out from the government that all who would re-enlist would get so much bounty from the State, county, and government.

313 R. D. Q. 67. You say you went to Vicksburg in June, 1863; what do you mean by that?

A. We started for Vicksburg, but we landed opposite, on Point De Soto, directly opposite Vicksburg.

R. D. Q. 68. State whether or not the fight at Baton Rouge about

which you have testified was against the rebel forces under General Breckenridge, when they attempted to regain that place.

A. That was the fight.

R. D. Q. 69. Were you at Port Hudson at the time of its surrender to the Union forces?

A. I was.

R. D. Q. 70. Where did you spend the winter from 1862 to 1863?

A. Quartered at Baton Rouge, I think.

R. D. Q. 71. Where were you in the winter of 1863 to 1864?

A. In Western Louisiana—part of the time in Opelousas, part of the time in Franklin. We left Opelousas some time in Dec., 1863, and went down to Franklin, and stayed there till spring.

R. D. Q. 72. What is a bridle front?

A. It's the part of the bridle that the crown piece goes through to buckle around the cheek pieces. It goes right across the horse's forehead.

R. D. Q. 73. How does the crown piece go through the bridle front?

A. It goes through the bridle front; through a loop at each end of the bridle front.

R. D. Q. 74. What was the use of the handle on the wooden bar strap which you made in 1862?

A. To carry it by, in case I went on inspection. It was handy to take hold of when we were called out on inspection, as we had to take our blankets.

R. D. Q. 75. Where were you when you made the two straps in the winter of 1863 and '64?

A. In Franklin.

R. D. Q. 76. What do you mean by black bridle leather, used in these straps?

A. I mean that bridle leather is thinner leather than harness leather.

R. D. Q. 77. Was Exhibit 27 out of your possession any time between your arrival in New York this morning and the time when you commenced to give your testimony?

A. No, sir.

R. D. Q. 78. Has it since been changed, or marked in any way which it was not marked before?

A. Yes; there is a mark on one of the straps.

R. D. Q. 79. Do you know who made that mark on the strap?

(Complainant's counsel admits that he has marked the letters R B B on the strap.)

Question withdrawn.

R. D. Q. 80. Please give the history of the shawl strap Exhibit 27.

(Objected to as not properly redirect examination.)

A. I made this strap in 1865 for a Christmas present to my daughter; she had it a year or two, or more. She went down into the State of Maine to see some of her relatives, and before she left to come home she gave it to her cousin, and there in the cousin's house in the bottom of the bar and the place where she belongs. I was down in Maine last month and saw the strap. While I was there the firm of Easton and Winship, the men that I am with, sent for me to come up, they wanted me at the store. So when I got to Boston I found it was on this shawl strap business that they wanted me, had telegraphed for this Exhibit 27 last Friday, and got it [illegible] forenoon, by mail, and brought it on with me here.

314

R. D. Q. 81. How would you account for the difference in color of straps and cross piece in Exhibit 27, if both have the same age?

A. Well, there is a difference in leather; some leathers will change color sooner than others. The straps are different leather from the cross piece.

4.15 p. m.

Counsel for complainant requests an adjournment until Sept. 8th, 1875, at 10½ a. m.

To which counsel for defendant objects, unless he gets two more days for his testimony.

Counsel for complainant consents that defendant have two more days to complete his testimony.

Adjourned to Sept. 8th, 1875, at 10½ a. m.

NEW YORK, *Sept. 8th*, 1875.

Met pursuant to adjournment. Present, counsel as before.

Recross-examination of SETH H. HATCH by Mr. BARNUM:

R. X Q. 82. Are you of the opinion from the different colors of the straps and leather on the cross-bar of Exhibit 27, and from the difference in the kind of leather, that they are of about equal age?

(Objected to as immaterial and are calculated to mislead.)

A. I couldn't tell you anything about the leather; I couldn't tell when the leather was manufactured; all I can say is to the making of the strap, which includes the whole thing, I suppose.

R. X Q. 83. Are you satisfied that the straps and cross-bar were made at the same time?

(Objected to, as the witness has already stated his best recollection on that point, and because not recross.)

A. Yes.

R. X Q. 84. What kind of trunks did Horton & Sons make while you were with them?

(Objected to as not recross-examination.)

A. They make from cheap paper trunks to a grain leather trunk, not but a very few grain leather trunks; they made them to order. They did not make sole leather trunks or valises.

R. X Q. 85. How many hands did they employ?

(Same objection, and as immaterial.)

A. When I worked there, they employed three besides myself, and the two sons worked at the bench.

R. X Q. 86. State minutely where and how you got all the material that is in that Exhibit 27, without looking at the exhibit.

(Same objection, and as already answered; also as the strap in question should be shown the witness so that he could identify the several parts therein, such as rivets, sewing thread, etc., whereas in truth the said strap is concealed by complainant's counsel.)

315 A. I bought the leather of Mr. Horton; I picked the leather out myself of some trimming leather. The buckles and thread I bought in Boston in a saddlery and hardware store. The iron I got at Mr. Horton's. The rivets I had at home, that I had left from some other jobs that I had done; I couldn't tell how long I had them.

R. X Q. 87. Did you have a bench at home, and what tools and facilities did you have for making it?

(Same objection as to question 85.)

A. I borrowed the stitching horse to stitch it with from Mr. Horton. I lived near the shop. The bench I used was a table to cut it out on,

and the tools I had at home. I had nothing but my common tools, which I used at Mr. Horton's, as I worked on common trunks there. My best tools I kept to home while working at Horton's. I couldn't enumerate all the tools I had at home; there were knives, awls, pinchers, cutting nippers, edge tools, creases, needles, hammers, etc., the other tools I couldn't recollect; those are the principal tools.

R. X Q. 88. Did you work by the week or by the piece at Horton's? (Same objection.)

A. I worked by the piece.

R. X Q. 89. Where is Horton and his sons now?

A. In Boston, in the same business there; the old gentleman is dead; the sons carry on the business in Boston, on Portland st. I couldn't tell the number.

R. X Q. 90. When and where did you first see a handle like that on Exhibit 27?

A. Well, I couldn't tell where first I saw it. I made handles like it twenty-five years ago on different fancy jobs that I made.

SETH H. HATCH.

Subscribed and sworn to before me this 8th day of Sept., 1875.

ERNEST C. WEBB (No. 4),
Notary Public, N. Y. County.

WILLIAM C. WATSON, recalled on the part of the defense, being duly sworn, says as follows:

Q. 1. Are you acquainted with the handwriting of Charles N. Miller, with whom you were formerly joined in business?

A. Yes.

Q. 2. State whether or not you ever saw him write.

A. Yes, sir.

Q. 3. Look at the letter and envelope now shown you, and state in whose handwriting the same is and when the same first came into your possession.

A. It's Charles N. Miller's; I received it the 19th of August, 1875.

Letter and envelope are marked for identification Letter and Envelope, Miller, Sept. 8th, 1875, E. C. W., notary.

W. C. WATSON.

Subscribed and sworn to before me this 8th day of Sept., 1875.

E. C. WEBB, No. 4,
Notary Public, N. Y. County.

316 FRANK MEINBERG, a witness called on behalf of the defendant, being duly sworn, deposes and says as follows:

Q. 1. What is your age, residence, and occupation?

A. My age is 45; my residence is 154 Third ave., N. Y. City; business, fancy saddlery goods.

Q. 2. When first did you engage in the business of fancy saddlery or leather goods in this city?

A. That was in 1853.

Q. 3. How long did you continue in that business after 1853?

A. I have been in the business up to 1868.

Q. 4. What kind of articles did you make between 1853 and 1868?

A. I make from 1853 up to 1864, nothing else than pad cloths for horses, front rosettes and hand pulls and hand bars. At 1864, I left the business where I was foreman. I started for myself at corner of 11th st. and 4th ave., in the basement. I stayed there a couple of months

and then hired a place at 99 4th ave., on a three years' lease; that same place I made all kinds of fancy leather goods, bought a show-case hanging outside of the door in daytime, and manufactured for customers here in the city, and took a great many orders from people who passed there.

Q. 5. What kind of goods did you exhibit in your show-case at 99 Fourth avenue?

A. Rosettes, dog collars, belts for Free Masons and Knight Templars, and shawl-straps.

Q. 6. What kind of shawl-straps?

A. Shawl-straps made generally from enameled and patent leather, and embroidery goods.

Q. 7. Look at the three shawl-straps now before you, and which are marked Exhibit Meinberg 1, 2, and 3, and state when first you saw them, and where?

A. That shawl strap Meinberg Exhibit 1, was made in the month of November, 1865, in my shop with my hands for the purpose of being put in my show case. That shawl-strap Meinberg Exhibit 2, was made in 1867 at 99 Fourth ave., in my shop. That shawl-strap Meinberg Exhibit 3, was made at the same time with this one, Meinberg Exhibit 1, by my hands.

The three exhibits referred to by the witness are offered in evidence by defendant's counsel, who states that at the request of the other side he has cut the leather of Exhibits Meinberg 2 and 3, for the purpose of exposing the iron bar concealed therein.

Q. 8. Where were Exhibits Meinberg 2 and 3 kept, after they were made?

A. This one, Exhibit Meinberg 3, was kept in the show case too, and that one, Exhibit Meinberg 2, was kept up-stairs in the shop.

Q. 9. How many shawl-straps with the bar, like the one in Meinberg Exhibit 2, did you make during the time mentioned—that is, between 1864 and 1868?

A. That is the last bar in 1868, and I only made very few of that kind.

Q. 10. What do you mean by saying, "That is the last bar in 1868," when you have testified that Meinberg Exhibit No. 2 was made in 1867?

A. I gave my business up that time in 1868, because my whole family died. In 1867, I came to the idea to make them like Exhibit Meinberg 2, and I made very few of them; of course, I only had a
317 chance to sell any the few weeks before Christmas, and afterwards I moved from there to 5th street. While I was in 5th street I commenced to work, then my family got sick and died; and then I stopped that business. Then by saying, "that is the last bar in 1868," I mean that is the last kind I made.

Q. 11. State what gave you the idea of using a stiff bar in a shawl-strap.

A. Well, when I was an apprentice boy, that was in Hildesheim, Germany, there I had to make the straps of a piece of wood of about that length (pointing to a blotter which measures 9½ inches). Some of them were short and some of them long, and there was at both ends a hole of about ¼ an inch or ⅜, and the holes, some of them were covered inside with brass, and the straps went through there; and I had to put the buckles in the straps and the handle riveted on that piece of wood.

Q. 12. What do you mean by saying the holes were covered with brass?

A. The hole what was out in there, was finished with brass to make it look nice.

Q. 13. Who were these straps made for in Hildesheim?

(Objected to as immaterial and irrelevant.)

A. My boss kept a big business, a big store of trunks, and satchels, and whips, and all kinds of articles that belonged to the leather trade; they were made for the store to sell them.

Q. 14. Did you ever see those straps in use; and, if so, by whom?

(Same objection.)

A. Every boy in the school had them.

Q. 15. How many shawl-straps of the style of Meinberg Exhibit 3 did you make between 1864 and 1868; I mean with the same style of bar?

A. That is a thing that I couldn't tell you exactly, how many. I know that I made at least three or four dozen in 1866, before the holidays, mostly embroidery goods.

Q. 16. How many of that same class of cross-bar did you make in 1865?

A. For instance, no more than a couple of dozen. If my books had not been burned by the fire in Third avenue, I could tell you exactly how many.

Q. 17. How many, about, of the style of Meinberg Exhibit No. 1, did you make between 1864 and 1868?

A. That one alone, and no other like that.

Q. 18. Have you been called on by Crouch or Fitzgerald, or their attorney, during the last 8 or 9 days? and, if so, state what transpired.

(Objected to as incompetent.)

A. There was a gentleman in my house; this is the gentleman here (witness pointing at Mr. Fitzgerald), and said his name was Fitzgerald. Mr. Fitzgerald came and asked me if I was Mr. Meinberg; of course, he says that he liked to see me on account that I was down in his place; of course he did not know what a young man down in the store means; that was what Mr. Fitzgerald says, that he didn't understand what the young man means, and he wanted to see myself. He wanted to know what kind of privilege I like to have from them, and I showed him my articles and asked him for the privilege of using a small brass loop, where the firm got a patent on it, and he told me that he did not have anything to give away now or to allow, because he being in a lawsuit with a gentleman named Roemer, and so he couldn't give me the privilege that I would like to have, before that was settled.

316 Q. 19. Was anything said about the stiff-bar shawl straps, that you have made, and if so, what?

(Same objection.)

A. Well, certain I showed them to Mr. Fitzgerald, and he said that they are very nice, that one kind he wouldn't allow me to make them except he stopped me. I told him that in the season I came down to see him, to talk to him about it; if he give me the privilege for that, said I would give him the privilege for mine; my new patent.

Q. 20. What do you mean, if he gave you the privilege for that; for what?

A. I mean the privilege of his brass loop on the shawl straps.

Q. 21. What kind of bar was it which he told you you have not use?

(Same objection.)

A. A long bar, from one piece of metal right through, and I said you got the patent on it; I understood you got a patent on the corrugated bar. Well, I told Mr. Fitzgerald, when he claimed that over his patent,

that we had made them the other way; there is no such a thing in the world, that they could claim in the English language a rigid bar.

Q. 22. You say that you went to the store; whose store?

A. To Mr. Crouch and Fitzgerald's store, down in a basement, corner of Fulton street or Maiden Lane, I don't know which it is.

Q. 23. What was told you there?

(Same objection.)

A. They told me that none of the gentlemen from the firm were home, and the young man who was there represented himself like the son of Mr. Crouch, he asked me what I want, and I show him my articles, and the privileges I want from the firm, and he told me they wouldn't give no any man, no man the privilege to make any; no use of talking. Of course they make every one in the United States stop, of course they had a patent on a rigid bar; I told him then to tell one of the gentlemens to come up in my house, of course be better for the market generally of course as it was a nice article. I told the gentleman if the firm got plenty money they can fight with the money, and I would fight without money for my right; of course they could not claim such a thing as a rigid bar; that was older than this country.

Q. 24. Please make yourself quite clear with regard to the privilege which you asked of the firm.

A. That is a brass loop about an inch long where the strap run through and the ring in the same loop that is a patent of Mr. Crouch.

Q. 25. State whether or not you asked of them or of Mr. Fitzgerald the right to use a stiff bar in a shawl-strap?

A. I didn't do no such a thing; I would ask nobody; I would take that privilege of my own.

1 p. m. adjourned to 2 p. m. for recess.

2 p. m. met pursuant to adjournment. Present counsel as before.

The direct examination of FRANZ MEINBERG resumed by Mr. BRIESEN.

Q. 26. Is the patent paper now shown the same about which you have testified as your patent?

A. Certainly it is.

319 The paper shown the witness is the original letters patent granted to Franz Meinberg on August 10th, 1875, and numbered 166473 for improvement in shawl holders.

ERNEST C. WEBB,
Notary Public.

(The certificate signed by the notary is objected to as incompetent.)

Q. 27. Please read from this patent the number, date, and title.

A. Number 166473, date August 10th, 1875, F. Meinberg, shawl holder.

Q. 28. Which shawl strap or kind of shawl strap did you show to Mr. Fitzgerald when he called on you?

(Same objection.)

A. Here they are, just the same way they are here.

The four shawl straps produced by witness are marked for identification Meinberg's patent A, B, C, D, respectively, and the bar produced by the witness is offered in evidence and marked Defendant's Exhibit No. 28, September 8th, 1875, E. C. W., notary.

(Same objection.)

Q. 29. What privilege was it you wanted from Crouch and Fitzgerald?

A. That silver loop; that loop here on Meinberg's patent B.

Q. 30. What is the bar Exhibit 28 used for?

A. For the bar of a shawl strap.

Q. 31. How does the bar Exhibit 28 differ, if at all, from the bar in Exhibit Meinberg 3?

A. That's the same thing.

Q. 32. How did you bend the metal on these bars in Exhibit Meinberg No. 3, and in Exhibit 28?

A. I ordered the metal by Mr. Dietz; he bent it for me.

Q. 33. When did he bend it for you?

A. He bent it for me the first one in 1863, in December; he make for me that time one dozen, for experiment. He made them for me about three years, and then he sold me his machine.

Q. 34. What machine?

A. An iron machine called a bending machine.

Q. 35. When did you buy that machine?

A. I guess it was in the year 1865 or 1866.

Q. 36. Might it have been in 1867?

A. Well, no. Oh, I'm sure it wasn't then, in 1867.

Q. 37. What did you do with that machine after you bought it?

A. I bent on that machine all different kinds of work.

Q. 38. What kind of work?

A. A fine bridle front and some few shawl straps.

Q. 39. State whether or not that machine is the same on which the metal of Exhibit 28 was bent?

A. Yes, sir; I only had that one machine.

Cross-examination:

X Q. 40. Is Exhibit 28 made according to your patent of August 10th, 1875?

320 (Objected to on the ground that the witness has not said that Exhibit 28 was made under his patent, and as immaterial.)

A. No, sir.

X Q. 41. In what respect does it differ?

(Objected to as immaterial and not cross-examination.)

The difference is that I have the binding or metal all around in my patent.

X Q. 42. Where were you born?

A. I was born in Emerke, Kingdom Hanover.

X Q. 43. When did you first come to this country?

A. I couldn't remember exactly the year I came here; six weeks before the crystal palace was opened in this city.

X Q. 44. From what port, by what vessel, and to what port did you come?

A. From Bremer Haven, by ship Magdalen, to New York City.

X Q. 45. In whose employ were you [illegible]?

A. A man of name Henry Korn; I worked [illegible] West Hoboken. From West Hoboken we moved down to New York City, [illegible] of Hudson and Read st., and from there we moved to [illegible] Church st. and West Broadway; I guess the number was [illegible] tell exactly. There was a baker [illegible] gentleman. I got employed by [illegible] way. That was in the year of [illegible] fancy saddlery. I came to Mr. Trainor in the [illegible] I moved with Mr. Trainor to that big white store [illegible] way, right up by St. Nicholas Hotel. There I left Mr. Trainor and went

to my old boss Mr. Korn; he took me back. Then I worked by him corner Elm and Franklin sts. From there we moved way in 11th st., between 4th and 3d avenues. In 11th st. I left the old gentleman, and start on the corner of 4th avenue and 11th st. in business for myself.

X Q. 46. How long were you with Korn, in West Hoboken?

A. In West Hoboken probably we stayed there from 7 to 8 months; then we all got the fever and ague, and had to move down.

X Q. 47. When did you first go with him?

A. When I came over from Germany.

X Q. 48. Did you go right to work with him as soon as you landed?

A. No, sir; I stayed one day in New York; that was down in Thompson st., by a man named Knister. He was a shoemaker, and the neighbor in West Hoboken of Mr. Korn.

X Q. 49. How soon after you landed did you go to work for Korn?

A. The next day after I arrived.

X Q. 50. How long were you with Korn at Hudson and Reade st.?

A. I guess we stayed there about a year.

X Q. 51. How long in Reade st., between Church and West Broadway?

A. I only worked there one winter with him; then I left there.

X Q. 52. How long did you stay with Trainor at cor. of White and Broadway?

A. So long but he moved from there. I guess I worked there in 1856 or 1857 up to about 1858, during the panic.

X Q. 53. How long did you work with Trainor at Broadway, near the St. Nicholas?

A. Well, I didn't work there not very long. Probably I worked there three-quarters of a year.

321 X Q. 54. When did you leave him and go again to Korn?

A. I guess that was in the year of 1858; I couldn't tell exactly. I left him in the winter before Christmas in 1858.

X Q. 55. How long were you with him at corner of Elm and Franklin?

A. I couldn't remember; I moved away with him; I know it wasn't over a year.

X Q. 56. How long did you remain with him in 11th st.?

A. I remained with him in 11th street up to the year 1863; that was about two years; something like that, or two and a half years.

X Q. 57. What time in 1863 did you leave him?

A. I left him—that was in the spring.

X Q 58. When did you first open the place at corner of 11th st. and 4th ave.?

A. In 1863, in the spring time

X Q. 59. Was it before or after the first of May?

A. I am sure it was before May.

X Q. 60. How long did you remain there?

A. I remained there through the summer; I couldn't tell exactly up to what time. I had the other place hired already in the middle of the summer.

X Q. 61. When did you move to 20 4th ave.?

A. It was about in August in the same year. I got lease from Mr. Merrick for three years; he kept a shop in the rear building; that was his own property.

X Q. 62. When did the lease commence?

A. I don't know if he gave me the lease from the same day that I moved in or from the same day that I rented.

X Q. 63. Did you remove from there before your lease was out?

A. No, sir; I stayed there a month afterwards my lease was out, or probably two months.

X Q. 64. Was that lease recorded?

A. No, sir. Mr. Morrish only gave me a handwriting paper that I had the lease three years. I didn't know anything about it being recorded.

X Q. 65. Where in 5th st. did you go to?

A. Between Bowery and Second ave., and you go down on the left-hand side. I had a shop on the top floor in my private residence on 5th st. I had six large rooms there.

X Q. 66. Who was your landlord there?

A. Mr. Browning and Jack Moore. They were two partners; kept a cattle business in an old negro church in 6th st.

X Q. 67. When did you remove to 5th st.?

A. That was in the year of 1867, in the first part of the winter; I guess it was October or November.

X Q. 68. How long did you remain there?

A. I remained there in 5th st. five months, when I took my whole family, and then I sold out there my furniture, only keeping my machinery and my tools, and then hired a small little shop by Mr. Joseph Martin, 143 Bowery. I stayed there at 5th st. about nine months through the summer.

X Q. 69. How long did you remain at 143 Bowery?

(Objected to as immaterial and not upon examination.)

A. I stayed there through the winter, and moved away about in January.

X Q. 70. Where did you go to then?

322 A. I got married and went to 154 Third ave. to start the hair business.

X Q. 71. How soon after you left the Bowery was this?

A. I started the hair business there right away; that was in February, 1868.

X Q. 72. How long did you stay at 154 Third ave.?

A. I am there yet.

Adjourned to Sept. 9th, 1875, at 11 a. m.

NEW YORK, *Sept. 9th*, 1875.

Met pursuant to adjournment. Present, counsel as before.

The cross-examination of FRANK MORRISSEY resumed by Mr. BARNUM:

X Q. 73. Have you remained in business at 154 Third ave. since you first went there?

A. Yes; except the time when I went to California.

X Q. 74. When was that and how long were you away?

A. I went to California in 1871, on the 20th or 25th of July. I stayed there about 6 weeks.

X Q. 75. What business did you carry on at 154 Third ave. from the time that you first went there to the time you went to California?

A. Human hair goods and human hair [illegible]

X Q. 76. Did you carry on any [illegible] in the office?

A. [illegible] velvet [illegible] that's all.

X Q. 77. After your return from California, what business did you carry on and where?

A. I carry on a business [illegible] New Haven Railroad, corner of College place and [illegible]

X Q. 78. How long?

A. Well, I guess about 5 or 6 months; I couldn't tell exactly.

X Q. 79. What did you do next and where?

A. I got a new patent out, which Mrs. Emma Bartlett wanted to swindle me out, and I hire a shop in 149 Bowery and manufacture my new invention of fine bridle front; that was immediately after I left Mrs. Bartlett.

X Q. 80. How long did you carry on this shop?

A. In that shop there, I guess from April up to the end of the year following; I can't tell exactly.

X Q. 81. Where did you next go in business?

A. I hired two floors of a house—I used the top floor for a shop—at 154 Third ave.

X Q. 82. What business did you carry on there at 154 Third ave.?

A. Manufacturing my new bridle front.

X Q. 83. When did you get at patent or patents for your bridle front?

(Objected to as immaterial.)

A. I got one—I think the first one—in 1872, in March; I got the other one last year.

X Q. 84. When did you first put Exhibit Meinberg No. 1 in your show case?

323 A. That was in 1864, in 99 Fourth ave.

X Q. 85. What part of 1864?

A. It was after June.

X Q. 86. How long after?

A. Probably five or six weeks.

X Q. 87. How do you fix that time?

A. Of course I hired that apartments there and we put new walls and ceilings in the house.

X Q. 88. Is that all?

A. I couldn't say any more; that is the way that I understand you to mean.

X Q. 89. How long did it remain in the show-case?

A. Sometimes three weeks; then I took it out and hangs some other goods in it of the same kind and different kind.

X Q. 90. When did you put Meinberg Exhibit No. 3, remain in the show-case?

A. I put that in the same year, but which day or month I couldn't tell, because I changed the goods in the show-case every 14 days or three weeks to clean them.

X Q. 91. How long did Meinberg Exhibit No. 3 remain in that show-case?

(Objected to as already answered.)

A. I couldn't tell; I'm sure it was three times in it; might be four times; the way I tell you I changed the goods in the show-case.

X Q. 92. When did you make Meinberg Exhibit No. 2?

(Objected to as already answered.)

A. I ain't sure was it in 1866 or 1867; of course I had more kind, and so it is bad for me to remember.

X Q. 93. How do you remember that?

A. Of course I had a customer, a lady, and she brought me embroidery goods about three inches wide, and she want to have a shawl strap made; she want to have it very stiff; of course it's for her brother who went off to Cuba; she didn't care how much it cost, the shawl strap, and I guess she pay me $15.00 or $16.00 for it, and then I had to make

the whole width of it from fine German silver, and had the German silver silver-plated; and the way I had that one done, I had an idea of making from common leather the same way; now, I don't know was it in the beginning of 1880 or the end of 1880.

X Q. 94. Is that the only way you remember it?

A. No, sir; I make afterwards two for George Nichols; he used to keep a business at Astor Place and Broadway.

X Q. 95. Where did you get the brass connections between the handle and cross-piece on Meinberg Exhibit No. 2?

A. I got them from a gentleman; he make fancy articles, and he keep down somewheres in 5th st., near 1st ave., in a big tenement house. Of course he was a countryman of my wife. I hunt for them kind of brass articles, and I went down to him and ask him where I get them, and he told me that there was importing business down in Maiden Lane or Fulton st. That I forgot, and he told me I needn't go there, and he had at least for twenty dozen them kind of articles, washers, and rings, and he would give all that I want; he didn't have any more use for them kind of brass rings and washers, and I can take as much I want and give him some Russian leather for it what my brother sent me from Moscow.

X Q. 96. What was the name of the man from whom you get the articles, and where is he now?

324 A. His name is Mr. Schmidt; I couldn't give his full name; he lived in a tenement house in 5th st. I couldn't tell where he is now.

X Q. 97. Did you get the brass loops also from him?

A. Certainly; all of them, the washers, loops, and the rings too.

X Q. 98. Where did you buy the leather in Meinberg Exhibits 2 and 3?

A. All the leather you see there was bought in Chadwick's patent-leather factory, in Newark.

X Q. 99. Were the parts composing the handle of Meinberg Exhibit No. 1 made for use on a shawl-strap?

A. I got six dozen made to order, certainly for nothing else.

X Q. 100. Who made them, and where were they made?

A. A gentleman of name Kohlmeyer; the first he made; he keeps in Mercer st., somewheres near Grand st., New York City, and then he moved from there down in Elm st., between Grand and the next street below; I guess 130 or 139; I couldn't tell. This chain on Exhibit Meinberg No. 1 had nothing to do with it; I put that on for show, to put in the show case.

X Q. 101. How many did he make for you first?

A. I ordered six dozen, and he told me not be too extreme to order six dozen; of course, his meaning was they are too clumsy or too common for such use, and would make them and give them to me just when I wants them; of course, he says the brass cost much money, only the labor is; then, of course, he wouldn't finish them off. He make them, all of them, the whole six dozen I ordered.

X Q. 102. How many did he finish up for you first?

A. I couldn't tell exactly was it a dozen or a dozen and a half.

X Q. 103. How many did he finish up for you next?

A. None at all.

X Q. 104. How were they finished?

A. Finished off the brass in cast and filed off even, and electroplated with silver.

X Q. 105. What became of the balance that were not finished?

A. I had to pay him for the brass and he had to keep them.

X Q. 106. What did you do with the others that were finished?

A. Some of them put on the shawl-straps; I sold the shawl-straps, and the rest of them I've got home in my trunk.

X Q. 107. How many have you got home in that trunk?

A. I couldn't tell exactly; I know I have got at least 3 or 5 of them; one of them I put down in the cellar, on the door.

X Q. 108. Where is Kohlmeyer now?

A. I don't know; might be he is there yet.

1 p. m., adjourned to 2 p. m., for recess.

2 p. m., met pursuant to adjournment.

The cross-examination of FRANZ MEINBERG resumed by Mr. BARNUM:

X Q. 109. When did you buy your show-case?

A. I bought mine show-case in the beginning of 1863.

X Q. 110. Of whom?

A. From Mr. Winter, a show-case manufacturer, corner of Bowery and Broome st.

X Q. 111. Where is he now?

325 A. He got business, I guess, at the same place, of course; I spoke to him a couple of weeks ago.

X Q. 112. What kind of belts did you make at 99 Fourth ave.?

A. I make a belt from patent leather, with silver mounting of Freemason or Knight Templar designs. One piece of patent leather doubled, stitched or without stitch; some of them were pasted together. There were some Freemason designs on one side and a chain on the other side, with some silver buckle with silver loops on the front.

X Q. 113. Who did you make them for?

A. I make five of them for John Nichols, of the firm Nichols and Company, Newark; keep a branch business here in New York. No one else that I made them for.

X Q. 114. Who did you make dog-collars and rosettes for?

A. For Harmer, Hayes & Co., 72 Beekman st.; C. B. Smith & Co., 40 or 42 Warren st.; Nichols & Co., corner of Broadway and Astor Place; rosettes were a new thing, which were only made in 1867; Campbell, in 4th av., near 8th st.; Mr. Martin, 143 Bowery. That is most of my customers, except a few dozen I sold out singly to customers I don't know. I remember another, Mr. Alexander Dunscomb; at that time he kept store at corner of Broadway and Prince st.

X Q. 115. What do you mean by a few dozen; a few dozen what?

A. Velvet and silk rosettes.

X Q. 116. What Mr. Dietz is it you referred to?

A. He kept at that time a business in stoves and tinware; I couldn't tell you the number; it was in Spring st., between Mercer and Broadway; I don't know his full name.

X Q. 117. Where is he now?

A. I couldn't tell.

X Q. 118. Where was he in business when you last saw him?

A. In that place in Spring street.

X Q. 119. When was it you saw him last?

A. It was the end or in the middle, I guess in the end, of 1865.

X Q. 120. When did you buy the beading-machine from him?

A. I bought it at that time, in 1865, for $4.50.

X Q. 121. What induced you to buy it?

A. Well, he made me some binding on the shawl-straps, something like this (pointing to Exhibit No. 28), and then he told me, Mr. Meinberg you better buy that old machine, I got no use for it; of course, they don't work so well as the new kind do now, and save me the trouble to order them, to go down there; that's about what we talked about.

X Q. 122. What new kind?

A. Well, what I understand by new kind, he showed me one where he only worked with one hand.

X Q. 123. What did Mr. Dietz make those new machines for?

(Objected to as calling for hearsay.)

A. He bought a new machine; he didn't make any.

X Q. 124. What were the new machines for?

(Same objection.)

A. I don't know; I guess for the same purpose I had mine for.

X Q. 125. What were the first shawl-straps you made with that machine?

(Objected to as tending to mislead.)

A. It was an embroidered shawl-strap that I made with that machine; broad. I took a piece of sole leather and bound it with metal, like Exhibit 28, and finished it off. Embrodery came there upon
326 the top; on the back we put velvet, and bound it with fine silk ribbon on the edges. The handle was sewed on the ends, and from the embroidery we turned a loop like that on Exhibit Meinberg 3. The embroidery was not on the loops; we made the loops by pasting a piece of leather under the canvas, and a piece of velvet on top of the canvas, to give it strength. The embroidery run the length of the bar, and the canvas which was not embroidered extended beyond that.

X Q. 126. How soon after you got the machine was this?

A. I couldn't tell exactly, probably a couple of weeks.

X Q. 127. What kind did you next make on this machine?

A. Different kinds. Leather ones, embroidery ones, velvet ones, and silk ones.

X Q. 128. Was Meinberg Exhibit No. 3 one of those?

A. No, sir; I wish you to understand that I didn't make that on the machine, he made me a couple of dozen before I got the machine.

X Q. 128½. How long after you got the machine was it before you made Meinberg Exhibit No. 2?

A. I couldn't tell for sure was it a half year or three quarter a year.

X Q. 129. Are you sure it was one or the other?

A. I couldn't tell; what I don't know sure I wouldn't tell.

X Q. 130. How many shawl-straps did you make like Meinberg Exhibit No. 3?

Witness asks: "Of the same principle, or the same colored leather?" Counsel replies that he has no reference to color of leather.

(Objected to as tending to mislead.)

A. How many I made in one year I coudn't tell, but I am sure I made five dozen of them.

X Q. 131. In what years did you make them?

A. I make them from the middle of 1863 up to the beginning of 1867.

X Q. 132. What became of those you made?

A. Sold them. About 9 or 10 of them left.

X Q. 133. Who did you sell them to?

A. I sold five of them to a lady; that is, understand, she brought embroidery. She keep a fine whore house in Eighth street, next door to the

Catholic church. I sold two of them to a aristocratic family, who live in 27th street, near Fourth avenue, on the east side. I don't know the name; I brought them there. Well, I sold some at the show-case and to some private people. The reason I couldn't tell you to who and how many exactly that I had, all my old shop books where I put my orders in—in a box—the box got destroyed by water and fire, and it wasn't any use to me any more, and put it in the dirt-barrel on the side-walk.

X Q. 134. When was this fire?

A. I don't know, sure was it in 1869 or 1870; my insurance paper is there, and there you can see it.

X Q. 135. Where was the fire?

A. In 154 Third avenue.

X Q. 136. What else did you lose by fire there?

(Objected to as immaterial.)

A. Nothing else but the three shades from the window.

X Q. 137. How many shawl-straps did you make like Meinberg Exhibit No. 2?

(Objected to as already answered.)

A. Very few; I couldn't tell exactly.

327 X Q. 138. To the best of your recollection, how many?

(Same objection.)

A. Well, I tell you, to the best of my recollection not more that 4 or 5.

X Q. 139. What became of them?

(Objected to as immaterial.)

A. A few of them I sold. A few of them I gave away, and that one is left.

X Q. 140. Who did you sell them to?

A. People I don't know.

X Q. 141. Who did you give them to?

A. I gave them to a young man. I didn't have a boy, and he did running for me. He like to have one for his sister, so I gave him one.

X Q. 142. What was his name, and where is he?

A. His mother washed for us. I don't remember the name.

X Q. 143. What day was it when you went to Crouch and Fitzgerald's store?

A. I guess that is about a week or 14 days ago.

X Q. 144. What day of the week was it?

A. That I couldn't tell.

X Q. 145. What day was it when Fitzgerald called on you.

A. I don't know exactly. I know it was a few days afterwards, may be a week.

X Q. 146. Had you any hands in your employ while you were in business up to 1868?

A. No, sir; that is the trouble I had to work with ten fingers.

Redirect:

R. Q. 147. Have you a good memory for dates?

A. No, sir; never had that in my life.

R. Q. 148. Who helped you, if any one, to make or stitch the shawl-straps about which you have testified?

A. My ten fingers and my wife.

R. Q. 149. What was the name of your wife?

A. Matilda Bär; that was her maiden name.

R. Q. 150. What is the name of your second wife?

A. Marie Haber.

R. Q. 151. Which of the two wives helped you to stitch these shawl-straps?

A. Matilda Bär; the first one.

R. Q. 152. Have you here the burial certificate of your first wife?

A. Yes; here it is.

Offered in evidence by defendant's counsel, and marked Deft's Exhibit 29, Sept. 9th, 1875, E. C. W., notary.

(Objected to as incompetent.)

328 *Defendant's Exhibit No. 29, Sept. 9th, 1875, E. C. W., notary, March 1st, 1867.*

Mr. L. Hoffman to the Greenwood Cemetery, Dr.

For grave No. 251, in lot No. 11193, for remains of Matilda Meinberg..... $15 00

Recived payment,

R. SCRIMGEOUR.

Undertaker's voucher. Received March 1st, 1867, fifteen dollars for grave No. 251, lot No. 11193.

R. SCRIMGEOUR.

R. Q. 153. When and from whom did you receive this burial certificate?

A. From Mr. Hoffman, undertaker; I don't know whether it was in 1867 or 1868. I received it after she was dead; I pay my bills generally right off.

R. Q. 154. Where did your wife Matilda die?

A. In fifth street, between Second avenue and Bowery.

R. Q. 155. You have stated that you first went into business for yourself in 1864, and in other parts of your testimony you say it was 1863; please try to remember in which year it was and give your best recollection.

A. I guess it was in the beginning of 1863; I ain't sure.

R. Q. 156. Are you sure how long you had the place in 99 Fourth avenue?

A. I am sure I was there three years.

R. Q. 157. How long had you lived in 5th street before your wife died?

A. I lived there a few months.

R. Q. 158. In which of your two places, corner 11th street and Fourth avenue, or 99 Fourth avenue, did you first have the show-case of which you have testified?

A. First my show-case had corner of 11th street and Fourth ave.

R. Q. 159. In which of these two places were you when you first exhibited in the show-case shawl-straps like Meinberg Exhibits 1 and 3?

A. In the show-case at 99 Fourth avenue I put that one—Exhibit Meinberg 3—in. That, Exhibit Meinberg 1, was put in corner 11th st. and Fourth avenue.

R. Q. 160. In what year did you first commence the hair business in Third avenue?

A. I guess it was 1868 or 1869; I ain't sure.

R. Q. 161. How long was your shop at 143 Bowery?

A. I guess pretty near a year; might be over a year.

Recross:

R. X Q. 162. What corner of 11th street and Fourth avenue was your shop?

A. The upper corner; there are only two corners.

R. X Q. 163. Between what streets is 99 Fourth avenue?

A. That is the fourth house from the upper corner of 11th street, on the east side.

330 R. X Q. 164. What part of that house did you lease?

A. I leased the top floor.

Redirect:

R. Q. 165. Did you have a sign at that place?

A. Never had a sign; my sign was a show-case.

R. Q. 166. Where was that placed during the day?

A. Between the door on the sidewalk and the alleyway leading to the rear buildings.

R. Q. 167. State whether or not any name or mark was on that show-case?

A. No, sir, I never had a name on it.

FRANZ MEINBERG.

Subscribed and sworn to before me this 9th day of Sept., 1875.

ERNEST C. WEBB (No. 4),
Notary Public, N. Y. County.

Counsel for complainant consenting, the examination is adjourned to Monday, Sept. 13th, 1875, at 11 a. m.

U. S. circuit court, district of New Jersey. In equity.

GEORGE CROUCH
vs.
WILLIAM ROEMER.

Testimony taken on behalf of defendant for final hearing under Rule 67 of the supreme court, as amended, in equity, before Edward K. Anderton, notary public.

NEW YORK, *Sept. 13th*, 1875.

Met pursuant to adjournment. Present, counsel as before.

ERNEST C. WEBB, a witness called on the part of the defendant, being duly sworn, deposes and says as follows:

Q. 1. What is your age, residence, and occupation?

A. I am 21 years old; I reside in New York City, but during the summer and fall at Westfield, Union County, New Jersey; and am clerk with A. v. Briesen, 258 Broadway, New York; I am also a notary public for New York County, and a commissioner of deeds for several States.

Q. 2. Where did you reside in the years 1863 to 1865?

A. In Baltimore, at No. 622 West Lombard street.

331 Q. 3. What was your occupation there?

A. I was a school-boy and attended school at grammar school No. 15, in the primary department.

Q. 4. State how you carried your books to and from school at that time?

A. Part of the time by a common book-strap, and part of the time by a bookholder, of which Exhibit No. 7 is a correct illustration.

Q. 5. State how you came into possession of that bookholder like Exhibit 7, and when the same was used by you?

A. I ordered the book-holder made, I had the bars made at a carpenter's, and the handle at a blacksmith's. I used the book-holder in the winter of 1863. I had seen book-holders like the one I had made in use

by other boys in the same school, and had mine made after one in use by a boy whose name I do not recollect. I used this book-holder up to the time I left school in 1865.

Q. 6. Look at the book-holder now shown you, and which is marked as follows: "Marked for identification Exhibit Watson, Aug. 12th, 1875, E. C. W., Notary," and state how the book-holder used by you differed from this article, and in what, if anything, it resembles the same?

A. The only difference is in the manner the strap passes over the top bar. In the one used by me the handle was slotted where it joins the bar, to permit the strap to pass along the top of the bar under the handle. The one used by me was more roughly made than this Exhibit.

Q. 7. Of what material was the top bar, marked B in Exhibit 7, made in the book-holder which you used?

A. It was made of hard wood, dark in color.

Q. 8. How many book-holders of the style used by you did you see in use in Baltimore while you went to school there?

A. I could not say positively, but know that I saw them frequently, some of the boys made them themselves, or rather book-holders of similar construction by taking the side-bar book-holders, nailing a handle on one bar, of leather or iron, and using them that way.

Counsel for defendant gives notice that at the hearing he will refer to the affidavit of George Crouch, sworn to before Robert A. Morrison, notary public, Sept. 16th, 1874, and read by complainant's counsel at the motion for an injunction herein.

Cross-examination waived.

ERNEST C. WEBB.

Sworn to and subscribed before me this 13th day of September, 1875.

EDW. K. ANDERTON,
Notary Public, N. Y. County.

NEW YORK, *Sept. 13th*, 1875.

I hereby certify that the foregoing deposition of Ernest C. Webb was taken, subscribed and sworn to before me, in accordance with law.

[L. S.] EDW. K. ANDERTON,
Notary Public, N. Y. County.

332 Circuit court of the United States for the district of New Jersey.
In equity.

GEORGE CROUCH
vs.
WILLIAM ROEMER.

SOUTHERN DISTRICT OF NEW YORK,
City and county of New York, ss:

George Crouch, being duly sworn, says that he is the complainant in this suit. That he is the patentee of the improvement in shawl-straps mentioned and referred to in the bill of complaint herein, and verily believes that he is the original and first inventor of the said improvement.

That he has seen and examined a shawl-strap made and sold by the above named defendant, and referred to in the affidavit of Andrew Fitzgerald, hereto annexed, and that the same is in all essential respects like that invented by deponent, and described in the specification of the re-issued letters patent, and as it embodies all the essential features there-

of to wit: the rigid cross-bar connecting the ends of the handle and provided with loops or their equivalent for holding the straps.

That an attempt has been made to give this strap a colorable difference by stripping it of leather, supporting rigid cross-bar edgewise, and cutting the loops in the cross-bar itself to receive the straps, but that such evasion introduces no new principle, either in its construction or operation, but that the results are precisely the same and obtained by the employment of the same means, the difference being simply in the form of the parts.

That no new or other result is obtained by the employment of longitudinal slots in the cross-bar, in place of leather loops, and that the slot is simply an equivalent for the loop, both performing the same office in the same relative position, and in precisely the same way.

And deponent further says, that about the 1st day of April, 1873, he commenced a suit in this court against Henry Speer, and Reinhold Speer, and Egbert Mattner, for infringement of said reissued letters patent, which said action was strongly defended, and in which, upon final hearing upon voluminous proofs, a final judgment was made by this court decreeing said letters patent to be valid, construing the same and finding the defendants to infringe the same, which judgment and decree is now in full force and effect.

And deponent further says, that he is engaged in the manufacture and sale of shawl-straps, embodying his said invention and has large facilities for supplying the demands of the trade and public, and is now prepared to furnish the same in any desired quantities at reasonable prices, and that he has not granted licenses to any one to make such shawl-straps, except by permission to make, pending the suit hereinbefore referred to, subject to the payment of royalty in the event of his success in maintaining the said re-issued letters patent, which said permissions were given to save litigation only, and all of which terminated with the decision of the said suit.

333 That deponent intends and desires to retain to himself the exclusive right to manufacture such straps.

GEORGE CROUCH.

Sworn to before me this 16th day of September, 1874.

[L. S.] ROBERT A. MORRISON,
Notary Public, N. Y. City.

NEW YORK, *Sept. 13th*, 1875.

WILLIAM ROEMER, the defendant, sworn in his own behalf, deposes and says as follows:

Q. 1. What is your age, residence, and occupation?

A. I am 38 years old next November; I am a manufacturer of traveling bags, and live at 59 Mulberry street, Newark, New Jersey.

Q. 2. Are you acquainted with Charles N. Miller, a witness in this cause?

A. Yes, sir.

Q. 3. Charles N. Miller stated in his testimony that some time ago you called on him and stated "that there was a lawsuit in which Mr. Watson's patents on a book-clamp would become very valuable, and that you then talked about fifty thousand or a hundred thousand dollars," what is your remembrance of that interview?

(Complainant's counsel objects to this question, or to any other of a similar nature, on the ground that it is not competent for the defendant to contradict or impeach his own witness.

Defendant's counsel explains that he intends to prove by the defendant that the conduct of the witness Miller, and the last part of the evidence given by him, were a surprise to the defense, and that such conduct was caused by improper motives on the part of said Miller, and that in support of this allegation counsel will also read Miller's letter of Aug. 18th, 1875, which has been identified by Mr. Watson; said letter is offered in evidence, and marked Defendant's Exhibit 30, Sept. 13th, 1875, E. C. W., Notary. Marked for identification, Miller's Letter and Envelope, Sept. 8th, 1875.)

Defendant's Exhibit No. 30.

SEPT. 13TH, 1875.

Mr. W. C. WATSON:

DEAR SIR: You can see me at No. 51 Broad street, at 11 o'clock, on Thursday. I have not been near the lawyers; nor do I think I shall go until they make it worth something to me. If this thing is worth so much, they who are to be benefited should be willing to pay.

My advice to you is to go no further without some substantial acknowledgment for your services. Otherwise they will beat you.

Very truly,

C. N. MILLER.

334 *Envelope.*

[New York, Aug. 18, 4 p. m.] [3 cents postage stamp.]

MR. WM. C. WATSON,

73 North Main street,

PATERSON, N. J.

(Objected to as incompetent for the same reasons.)

A. I called on Mr. Miller a few days before Aug. 26, requesting him to come here to sign his deposition; he promised then to do so; there was nothing said about the value of Watson's patent then. I never had any previous interview with Mr. Miller prior to his giving his deposition. I had seen him before he gave his deposition, and told him Mr. Watson would like to see him, as there was a suit for a shawl-strap pending, in which I would like to have him as a witness; he promised to meet Mr. Watson at the Delmonico Hotel; that was all the conversation I had with him.

Q. 4. State what you remember about fifty or a hundred thousand dollars, about which he testified?

A. I don't remember anything about fifty or a hundred thousand dollars; there was not a word said about that. When I went there on the 26th of Aug. requesting him to come up and sign his deposition, he replied, I don't know about that; that whole case don't concern me any; what should I lose my time about it; come down with something substantial; then we will talk over the matter what I will do. I told him then that wouldn't and couldn't give him anything for his deposition. He replied, my deposition is worth something to you; of course, said I, it is, and I am willing to pay you your trouble and time, what the law

allows you; that's not what I want, says he; my deposition is worth to you more than that; to which I replied, it's worth a good deal to me, but I wouldn't want to pay you anything extra for it; it wouldn't be a square action on my part; you better come up, and not make any trouble about signing your deposition, as, if you are not willing to come freely, I would have to subpœna you. He answered, you can do as you please, but I won't come unless I get something for it. I left his place, and afterwards again went there on the same day with Mr. Webb, requesting him again, politely, to come up and sign his deposition. No; we took the deposition along, requesting him to sign it; he refused doing so. I then went there again the same day, and subpœnaed him.

Cross-examined:

X Q. 5. When was Miller first served with a subpœna?

A. On the 26th of August, between one and two o'clock in the afternoon.

X Q. 6. What reasons did Miller give for not signing the deposition when you and Webb took it to him?

335 A. He give no reason than said he wouldn't sign it.

X Q. 7. Did he look at or read it?

A. He did neither.

X Q. 8. You say he gave no reasons then; when did he give any reasons?

A. When I was there the first time in the morning, the same day.

X Q. 9. Were you a witness in the case of Crouch vs. Speers and Mattner in this court?

(Objected to as not cross-examination.)

A. I was on the part of the complainant.

X Q. 10. Was your testimony then given true to the best of your knowledge?

(Same objection.)

A. It was.

Complainant's counsel gives notice that on the hearing herein, he will introduce in evidence the record in that case, on the files of the court, and read therefrom the evidence of William Roemer.

To which offer defendant's counsel objects on the ground that this cause cannot be prejudiced by any evidence produced by complainant, unless opportunity is given to defendant's counsel to cross-examine the witnesses so produced.

WILLIAM ROEMER.

Subscribed and sworn to before me this 13th day of Sept., 1875.

ERNEST C. WEBB (No. 4),
Notary Public, N. Y. County.

12.45 p. m.; adjourned to 2 p. m. for recess.

2 p. m. Met pursuant to adjournment.

L. HOFFMANN, a witness called on behalf of the defendant, being duly sworn, deposes and says as follows:

Q. 1. What is your age, residence, and occupation?

A. My age is 39; 266 East Houston st., New York City; occupation, undertaker.

Q. 2. Do you know Franz Meinberg, of New York City?

A. Which one do you mean, the one that I spoke about 5th st. and the Bowery? If so, it is right.

Q. 3. Franz Meinberg, who lived in 5th st. near Bowery, and now at 145 Third ave., saddler?

A. Yes, sir.

Q. 4. Do you remember that his wife died while they lived in 5th st.; and, if so, state how you come to remember?

A. Well, I was notified. I don't know whether it was a Friday or Saturday. I was notified she was dead, and they wanted her body placed on ice as soon as possible.

Q. 5. Look at the paper marked Exhibit No. 29, and state whether you have seen it before; and, if so, when first?

A. That I can't tell, whether I have seen it before and whether I have had it in my hands before or not; I didn't go out to the funeral.

Q. 6. Will your books show, or do you remember when Meinberg's wife was buried?

336 A. Yes, sir; I know the books will show when she was buried. I don't remember when she was buried without the books.

Please look in your books and ascertain the date of burial of Matilda Meinberg, wife of Franz Meinberg.

The further examination of this witness adjourned to the 15th of Sept., 1875, at 11 a. m.

NEW YORK, *Sept. 15th*, 1875.

Adjourned to Sept. 17th, 1875, at 10½ a. m.

NEW YORK, *Sept. 17th*, 1875.

Adjourned to Sept. 20th, 1875, at 10½ a. m.

NEW YORK, *Sept. 20th*, 1875.

Adjourned to Sept. 21st, 1875, at 10½ a. m.

NEW YORK, *Sept. 21st*, 1875.

Met pursuant to adjournment; present, counsel as before.

The direct examination of L. HOFFMANN resumed by Mr. BRIESEN:

Q. 7. Did you ascertain from your books when Matilda Meinberg, wife of Franz Meinberg, was buried?

A. Yes, sir; on the 1st of March, 1867.

Q. 8. Is this the Franz Meinberg about whom you have testified? (Counsel pointing to the witness Franz Meinberg, who is present.)

A. Yes, sir; that's the gentleman.

Q. 9. State whether or not you recognize the paper Exhibit No. 29, as a genuine grave receipt and voucher.

A. Yes, sir.

Q. 10. State whether or not you frequently received and handle such grave receipts, and are acquainted with the signature of R. Scrimgeour?

A. Yes, sir; I do sometimes, until called for. That is the signature.

Cross-examination waived.

LOUIS HOFFMANN.

Subscribed and sworn to before me this 21st day of Sept., 1875.

ERNEST C. WEBB (No. 4),
Notary Public, N. Y. County.

NEW YORK, *Sept. 13th*, 1875—3 p. m.

FERDINAND C. SCHMIDT, a witness called on behalf of the defendant, being duly sworn, deposes and says as follows:

Q. 1. What is your age, residence, and occupation?

A. 37 years of age; 102 Oliver st., Newark, New Jersey; bag maker. I am superintendent for Edgar Farmer and Company at Newark.

Q. 2. How long have you been with them?

A. Since November, 1869.

Q. 3. Where were you before in business?

A. I was in business here in New York in 53d st., between Lexington and Fourth Avenues, and part of the time in Centre st., and the last place was down in West Broadway.

Q. 4. During what years were you in business in 53d st.?

337 From 1862 to 1865 or 1866. I ain't certain.

Q. 5. What kind of goods did you make there?

A. I made some pocket-books and mostly bags, that was most our business except any odd orders that came in, in the bag line.

Q. 6. Odd orders for what?

A. Well, such as worsted bags, some worsted shawl straps.

Q. 7. Describe the worsted shawl straps, which you made in 53d street.

A. Well, we used to get three pieces of worsted work of different length and width, two for straps and one for the handle part, that is, for the handle to go on top of it to hold the straps, sometimes only two peices. We used to sometimes take a piece of leather and trunk board put in between and have the worsted laid on top and bound around the edge, and put leather loops over to hold the straps down with a ring to attach the handle. I also went down to get little pieces of hoop iron to put in between to get the stiffness.

Q. 8. Describe more particularly those shawl straps, which you made with the hoop iron.

A. The strap used to be with the leather part underneath and the worsted part was broad enough to allow us to stitch it all around without interfering with the iron; the iron was in the bar right between the worsted and the leather. The most of the time that I made them, I let the leather come out far enough to lap over and form the loops for the straps to go through.. The handle was fastened either with a ring and plate or with a post ring, sometimes they were riveted right through.

Q. 9. How many pieces of hoop iron were there in one such strap?

A. One.

Q. 10. When first did you make a shawl strap with hoop iron in the cross-bar?

A. I think it was about Dec., 1863.

Q. 11. When first are you sure that you made a shawl strap with hoop iron in the cross bar?

A. I couldn't tell exactly to the date, they were odd orders that came in mostly before the holidays. I am pretty sure that I made them in 1864, just before the holidays; I started to make some in 1863, but I am not sure whether I used hoop iron in them or leather or trunk-board for the stiffening.

Q. 12. Can you not tell definitely when you removed your business from 53d st., to Centre st.?

A. No, sir; not unless I look over my papers and see if I can find it yet. I haven't kept the run of it. I don't know the year to a certainty.

Q. 13. Was it later than 1866?

A. I couldn't tell you, sir.

Q. 14. Do you think you can find that from your papers at home?

A. I can try; I ain't certain whether I have got them yet.

Counsel for complainant admits that the entries made in Exhibit Rumpp Account Book as referred to by Rumpp in his testimony were made on the dates respectively thereto noted and are bona fide entries

of the business transactions which they represent, but does not waive his objection as to the competency of the exhibit.

NEW YORK, *Sept.* 21*st*, 1875.

ADOLPHUS Y. ANDREWS, a witness called on behalf of the defendant, being duly sworn, deposes and says as follows:

338 Q. 1. What is your age, residence and occupation?

A. My age is 29 years; 811 North 11th st., Philadelphia; manufacturer of pocket-books; a member of the firm of Turner, Andrews & Co., 41 North Sixth st., Philadelphia.

Q. 2. In whose employ were you immediately before joining the firm of Turner, Andrews & Co., and when did you join that firm?

A. In the employ of C. F. Rumpp, 116 and 118 North 4th street, Philadelphia; our partnership was formed January 1st, 1875.

Q. 3. When were you first employed by Mr. Rumpp?

A. September, 1862.

Q. 4. What was your occupation while with Mr. Rumpp?

A. Bookkeeper.

Q. 5. Look at this book marked Exhibit Rumpp Account Book and state in whose handwriting the entries therein are.

A. Most of them are mine.

Q. 6. In whose handwriting are the entries of shawl-strap sales on pages 140, 222, 224, 413, 430, 438, 482, 485, 487, 480, 503 and 546 in said book?

A. All my handwriting except 140 and 224.

Q. 7. What kind of shawl straps were those of which the sales are entered by you in this book Exhibit Rumpp Account Book?

A. Straps with the stiff bar, stiffened by a piece of hoop iron.

Q. 8. How do you know that?

A. From the fact of the prices charged and the knowledge that straps without bars were not made until Mr. Rumpp's return from Europe in the fall of 1868, I think it was in the last of August or the first of September. After we had moved to the rear salesroom, I remember helping the porter to remove hoop iron from imported cases for the purpose of using in shawl straps.

Q. 9. What do you mean by the words "without bars" in your last answer?

A. Without any leather or other substance under the handle to connect the two straps.

Q. 10. How were these bars constructed, as far as you know, prior to Mr. Rumpp's return from Europe?

A. The bars were pieces of hoop iron having leather sewed on both sides.

Q. 11. Look at these two bundle holders which are marked Exhibit Rumpp and Exhibit No. 17, and state where and when you first saw them.

A. I saw them in the store of C. F. Rumpp in the fall of 1866.

Q. 12. Please relate all you know about them.

A. The one marked Exhibit No. 17 was the first one made for the use of Mr. C. B. Turner, then salesman for C. F. Rumpp, but proved entirely too clumsy and heavy, and then it was laid away, and a new one was made; the one marked defendant's Exhibit C. F. Rumpp, which he continued to use for a while. The one marked No. 17, after being discarded by C. B. Turner, was nailed to the door of the basement by myself and another clerk, where it was used as a door handle up to within a year.

Q. 13. When did you move your office into the cellar or basement of Rumpp's establishment?

A. In 1865, I think. I am not positive.

Q. 14. When did you leave that cellar or basement?

A. In May, 1867.

339 Q. 15. When was this Exhibit 17 nailed to the door; before or after you left that basement?

A. Before.

Q. 16. Which was the first rigid bar shawl strap that you have seen and where and when did you see it?

A. Those manufactured by C. F. Rumpp in 1866.

Q. 17. State whether or not Exhibit 17 is the first rigid bar shawl strap that you have seen.

A. It is not.

Q. 18. How do you know it is not?

A. Because the one marked Exhibit No. 17 was not an original idea, it was copied from those which C. F. Rumpp had made, but was made heavier and stronger to hold a heavy weight.

Q. 19. Look at this letter and state whether it is in your handwriting; and, if so, when it was written.

A. It is mine and was written September 16th, 1875.

Offered in evidence by defendant's counsel, and marked Defendant's Exhibit No. 31, Sept. 21st, 1875, E. C. W., Notary.

(The introduction of this letter objected to as incompetent and immaterial.)

Defendant's Exhibit No. 31, Sept. 21st, 1875, E. C. W., Notary.

[C. B. Turner, A. Y. Andrews, W. A. Haines, W. A. Davis. Turner, Andrews & Co., manufacturers and importers of pocket-books and fancy leather goods, 41 North Sixth street, Philadelphia.]

SEPT. 16TH, 1875.

A. V. BRIESEN, Esq.:

D'R S'R: Yours to hand. You say the other side has admitted the entries; but do they admit them as entries of stiff-bar shawl straps? I know that they are such from the fact that the entries prove there was no straps made without stiff bar until some time after. The prices of the articles indicating that, also the original strap submitted by Mr. Rumpp was made for one of his salesmen (now the head of our firm) for his personal use, and as there was no straps made without bar, the sample was made as we had been accustomed to making (with stiff bar); in fact, the very original, the heavy stiff bar, was only used once, and then I and another clerk nailed it to the basement door as a handle. That was prior to May 13th, 1867. I kept the books in the basement, and on May 13th, 1867, we moved up stairs, using the basement only for a store-room, thereby proving that the strap was made prior to that date. I also distinctly remember the porter during that year removing the hoop-iron from cases for the straps; in fact, sometimes helped to remove them myself. I am particularly desirous to favor Mr. Rumpp, and if my evidence has any weight, would cheerfully give it.

A. Y. ANDREWS.

Q. 20. You say in your letter that you are particularly desirous to favor Mr. Rumpp. Why are you so?

(Objected to as immaterial and incompetent.)

340 A. Because he has always been a great friend to me, and I firmly believe that his side of the question is correct.

Q. 21. Are you in any way interested in the issue of this cause?

A. Not in the least, except to see justice done.

Cross-examined:

X Q. 22. While you were in Rumpp's employ, were you thoroughly familiar with his business?

(Objected to as indefinite.)

A. Not thoroughly, with all the business.

X Q. 23. What parts of the business were you familiar with?

A. With all appertaining to the store.

X Q. 24. What time in 1866 was it when you first saw a rigid bar shawl strap?

A. I have no positive time, as they were manufactured at different times.

X Q. 25. How do you fix the year 1866 as the time?

A. Because the Exhibits 17 and C. F. Rumpp were made in the fall of 1866, and rigid straps were made before that time.

X Q. 26. Describe in detail the first rigid bar shawl strap you saw.

A. Not being thoroughly familiar with their manufacture, could not give any positive description, except that they had a piece of hoop iron covered with leather for a bar.

X Q. 27. Is that all you can tell about them?

A. That is all of any moment. The handles were fastened on in different ways, also the loops for straps. The way they were made first I cannot describe.

X Q. 28. When were those made that you can describe?

A. I have no positive date, except within a few years. I do remember that among the first the handle was sewed to a ring and nob, which knob was riveted to the bar.

X Q. 29. Can you tell how the loops were made which accompanied this handle?

A. I think the bar was bent around underneath.

X Q. 30. Are you not sure about it?

A. No, sir. I am sure some were made that way.

X Q. 31. Are you sure that some of the straps that had that handle had also those loops?

(Objected to as entirely immaterial.)

A. I am not sure.

X Q. 32. Are you positive that either that handle or those loops were made in 1866?

(Same objection.)

A. I am not.

X Q. 33. Are you positive that they were so made in 1867?

(Same objection.)

A. I am not.

X Q. 34. Can you describe the kind of handle or loops which were on the straps you saw in 1866?

A. I cannot.

X Q. 35. How many rigid bar shawl straps did you see in 1866?

(Objected to as immaterial.)

A. I cannot say.

X Q. 36. How many in 1867?

(Same objection.)

A. I cannot say.

341 X Q. 37. Can you describe any of the shawl-straps referred to in the entries made by you in Exhibit Rumpp Account Book?

A. No further than that they had stiff bars.

X Q. 38. What do you mean by moved "to the rear salesroom"?
(Objected to as incompetent, unless the answer referred to is read to the witness.)
A. The wholesale department was in the basement, and in May, 1867, it was transferred to the room back which had been fitted up for the wholesale room.
X Q. 39. How many employees did Rumpp have from 1865 to 1867?
(Objected to as not cross-examination.)
A. In the neighborhood of 100.
X Q. 40. Do you know who made the straps in 1866?
(Same objection.)
A. Do not know the name or names, but they were made under the supervision of Mr. Metzger.
X Q. 41. Do you know who made Exhibits Rumpp and 17?
(Same objection.)
A. I think Mr. Metzger made them; I don't know who.
X Q. 42. What makes you think Metzger made them?
(Same objection, and as calling for an opinion.)
A. Because he was the foreman, and all single work was referred to him.
X Q. 43. How do you fix the date of the making of Exhibits Rumpp 17 and?
A. Because we moved out of the basement in May, 1867, which date I wrote upon the money-drawer of the new wholesale room when we occupied it for business. The straps were left in the basement after that date.
X Q. 44. Where was the door to which you have testified?
A. At the bottom of the stairs leading into the basement.
X Q. 45. Did you keep the books of the establishment up to May 13th, 1867?
A. I did.

1 p. m. Adjourned to 2 p. m. for recess.

Met pursuant to adjournment.

X Q. 46. What kind of a door was that opening into the basement?
A. A thin wooden door.
X Q. 47. How was it fastened?
A. With iron hinges, no fastening on the other side of the door. A wire spring to keep it shut.
X Q. 48. How do you know that Exhibit 17 was put on that door before you moved up-stairs?
A. Because my principal business lay in the office, and when the office was removed to the rear salesroom I had no further connection with the basement, and therefore could not have put it on after May, 1867.
X Q. 49. Did you not go into the basement at all after you moved up-stairs?
A. I did, but only seldom.
X Q. 50. When was your attention first called to the time when C. F. Rumpp first made rigid bar shawl-straps after 1868?
A. It was either in 1868 or 1869.
X Q. 51. When after 1869?
(Objected to as not cross-examination.)
342 A. I don't know the date.
X Q. 52. About when?
(Same objection, and as immaterial.)

A. It has been called several times, but do not know any positive dates, except within the last year when correspondence was opened with Crouch and Fitzgerald.

X Q. 53. How long before correspondence was so opened was it that you had it called to your attention?

(Same objection.)

A. I think it was in 1868 or 1869 when Mr. Brown, who was then Crouch and Fitzgerald's agent or partner, called upon Mr. Rumpp in reference to a patent on shaw-straps. Mr. Rumpp laughed at the idea at the time, and told Mr. Brown that he had made them long before. From that time up to within about a year nothing to my knowledge had been said in reference to patent on shawl-straps.

X Q. 54. Did you ever talk with Mr. Rumpp in reference to it; and, if so, when last?

A. I did; about a week ago.

X Q. 55. When was Exhibit 17 nailed to the door referred to?

A. Prior to May, 1867.

X Q. 56. Have you any recollection of the time when it was put on?

A. It was in the winter.

X Q. 57. What time in the winter?

A. I suppose it to be about January, 1867.

X Q. 58. Have you any recollection about it?

A. I have no recollection of the exact month, but know it must have been in the winter, as we made no use of the basement as an office after May, 1867, and the handle was used for pulling the door open during the winter months, the door being kept shut by the wire spring, to keep the draught away from the desk.

Redirect:

R. Q. 59. Please relate all that occurred when Mr. Brown called on Mr. Rumpp in 1868 or 1869.

(Objected to as not properly redirect.)

A. He spoke more directly to Mr. Rumpp himself, but I was present and heard him say words to the effect that Mr. Rumpp was infringing upon a patent which had been granted to Crouch and Fitzgerald; he endeavored to impress it. I can't give his words, but merely the substance of it, as the date is too far back, and the substance supposed then to be of no consequence. They had quite long a controversy in reference to the patent, but Brown failed to convince Mr. Rumpp in the slightest degree as to the legality of the patent, and they seemed to settle the matter amicably.

R. Q. 60. State whether or not Mr. Rumpp continued to deal in rigid bar shawl-straps from 1868 to 1874?

A. He did.

R. Q. 61. What was there on that door for pulling it open before you nailed Exhibit 17 to it?

A. I think there was a small China knob.

R. Q. 62. State whether or not you are absolutely positive that your office was removed from the cellar to up-stairs in May, 1867; and, if so, can you state the exact date of the removal?

A. May 13th, 1867, was the date of the removal.

R. Q. 63. You have testified that you first remember seeing
343 rigid bar shawl-straps in 1868. Are you positive that that was the first year in which you saw them?

A. I am not positive it was the first year.

R. Q. 64. How shall I understand your last answer?

A. I mean by saying it was not the first year, that, as I am positive the Exhibits 17 and C. F. Rumpp were made in 1866, the idea of rigid straps was not new, and may have been made in 1865 and 1864.

R. Q. 65. Where was that desk referred to in answer 58?

A. The desk was at the rear of the basement on the left-hand side of the door opening into the basement.

R. Q. 66. Whose desk was it?

A. My desk.

R. Q. 67. Give the conversation between you and Mr. Rumpp as it occurred last week with reference to this testimony.

A. The exact words I cannot give. What I do remember was that he wanted me to testify only what I knew to be true, and not have any personal feeling in the matter.

A. Y. ANDREWS.

Subscribed and sworn to before me this 21st day of September, 1875.

ERNEST C. WEBB, (No. 4,)
Notary Public, N. Y. County.

Defendant closes.

It is stipulated that complainant have until the 1st of November, 1875, for rebuttal.

344 *Defendant's testimony taken in sur-rebuttal.*

United States circuit court, district of New Jersey. In equity.

GEORGE CROUCH
vs.
WILLIAM ROEMER.

Testimony taken on behalf of the defendant for final hearing, under rule 67 of the supreme court, as amended, in equity, before Ernest C. Webb, notary public.

NEW YORK, *January* 20, 1876.

Present, Mr. A. v. Briesen for defendant, and Mr. E. B. Barnum for complainant.

Adjourned to Thursday, January 27, 1876, at 1 o'clock p. m.

NEW YORK, *January* 27, 1876.

Met pursuant to adjournment. Present, counsel as before.

JAMES HAMILTON, a witness called on behalf of defendant, being duly sworn, testified as follows:

Q. 1. Have you testified in this cause before?

A. Yes, sir.

Q. 2. You have stated that you had a place of business at No. 2 Courtlandt st.; please state when your business was at that place?

(Objected to as previously answered.)

A. I commenced business there in 1846 or 1847. I remained there until 1849 or 1850; I won't be positive which.

Q. 3. And from there you removed to what place?

(Same objection.)

A. I think the next place that I was in was 552 Broadway.

Q. 4. And which the next?

(Same objection.)

A. I was in two or three places for a short time; the buildings I moved into unfortunately were torn down; the next permanent place was corner of Broadway and Prince st.

Q. 5. How long have you known Crouch & Fitzgerald?

A. Well, I suppose I'd better say I have known them since they went into business; I have known Mr. Fitzgerald before, and Mr. Crouch, too.

Q. 6. State whether or not they knew you while you were at No. 2, Courtlandt st., and whether or not they knew you to be at No. 2, Courtlandt st.

(Objected to as immaterial and improper sur-rebuttal.)

A. Well, I suppose they did; I know Mr. Fitzgerald did, because he came to see me there; I don't think Mr. Crouch ever came to see me there.

345 Q. 7. Did you after 1849 or 1850 again occupy premises at No. 2, Courtlandt st.?

(Same objection.)

A. No, sir.

Q. 8. Do you remember whether or not you refused to give your name to directory canvassers while you were in business in this city?

(Objected to as immaterial.)

A. Well, I think likely I have; yes, sir.

JAMES HAMILTON.

Subscribed and sworn to before me this 27th day of January, 1876.

ERNEST C. WEBB (No. 4),
Notary Public, N. Y. County.

Defendant's counsel gives notice that he will proceed to take testimony in this matter in the city of Philadelphia at the Girard House, corner of 9th and Chestnut st., on Saturday, January 29, 1876, at 9 o'clock in the morning.

In the circuit court of the United States, district of New Jersey. In equity.

GEORGE CROUCH
vs.
W. ROEMER.

Testimony taken on behalf of defendant, pursuant to notice, at Philadelphia, on Saturday, January 29, 1876, at 9½ o'clock a. m., before Benjamin Daniels, a notary public.

Present, E. B. Barnum, esq., counsel for complainant, and A. v. Briesen, esq., counsel for defendant.

EDWARD GAMBLE, being duly sworn according to law, deposes and says:

Q. 1. What is your name, age, and residence, and occupation?

A. Name is Edward Gamble; age, about fifty; residence, No. 12 Burrs avenue, Philadelphia; occupation, saddler.

Q. 2. In whose employ were you immediately preceding the war?

A. Mr. Knorr and Nece.

Q. 3. What did Knorr & Nece manufacture while you were in their employ before the war?

(Objected to as not sur-rebuttal and as incompetent.)

A. All in their line of business—harness, saddles, bridles, and all kinds of straps; there was shawl straps made and ladies pages, skate straps.

(The answer is objected to on the ground that this evidence should have been produced on the defendant's direct case.

346 Defendant's counsel explains that this witness is produced to rebut the answers of plaintiff's witness, J. W. Jones, to questions 15 and 16.

Mr. Barnum declines to cross-examine for reasons stated in objection.)

EDWARD GAMBLE.

Sworn and subscribed before me this 29th day of January, 1876.

BENJAMIN DANIELS,
Notary Pub

FREDERICK W. MILLER, being duly sworn according to law, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Frederick W. Miller; age, 26; residence, 512 Thompson street, Philadelphia; occupation, bookkeeper at C. F. Rumpp's.

Q. 2. Since when have you been in the employ of Mr. C. F. Rumpp?

A. Since 23d day of March, 1864.

Q. 3. Do you know Isidore Bremer, a clerk of George Crouch, the complainant?

A. I have seen him in C. F. Rumpp's store three different times.

Q. 4. When first?

A. In the fall of 1874.

Q. 5. What was his errand at that time?

A. The first and second visit was to obtain royalty.

Q. 6. State whether the first and second visits occur'ed in one day.

A. They did.

Q. 7. How soon after did he call for the third time?

(Objected to as not sur-rebuttal.)

A. The next day.

Q. 8. State whether or not Mr. Rumpp gave him an order for shawl-straps, and, if so, whether such order was given on the first, second, or third visit?

(Same objection.)

A. He gave an order on the third visit.

Q. 9. State whether or not an order was solicited by Bremer during his first and second visits, and give your full recollection upon that point.

(Same objection.)

A. As I said before his first object was to obtain royalty, and to get out of paying the royalty he promised to give him an order, which he did the next day. That is all my recollection about it.

Q. 10. State whether or not Bremer solicited an order on the first and second visits.

A. He did not to my knowledge.

Q. 11. Were you present at the three interviews which Mr. Bremer had at Mr. Rumpp's establishment?

A. I was.

Q. 12. State whether or not any one accompanied Mr. Bremer during the first, second, and third visits.

A. During the first and second visits he was accompanied by a young man, and the third he was alone.

Q. 13. State whether or not said Bremer brought samples on which to solicit orders, and, if so, when first he had them with him.

A. He had them with him on the first visits, but did not show them. I cannot say about the second. The third he had them with him, and showed them, and received an order.

347 Q. 14. Said Bremer testifies that at the end of the second visit Mr. Rumpp asked him whether he should give him a check for the amount of royalty. What is your recollection on that point?

A. I will say that C. F. Rumpp never offered to give him a check or cash, as he would not give a check or cash to a stranger.

Q. 15. What goods did Mr. Rumpp buy from Mr. Bremer at the second visit?

A. He did not buy any.

Q. 16. State whether or not you have examined the books of C. F. Rumpp to ascertain the dealings of George B. Bains and his firm with Mr. Rumpp, and whether you have made an extract from said books, showing the amount of said dealings, and, if yes, will you produce the same?

A. I have examined the books and do produce the extract.

The paper produced by witness is offered in evidence and marked Defendant's Exhibit 32, B. D., Notary Public.

(Objected to as incompetent.)

Defendant's Exhibit 32.—*B. D., Notary Public.*

PHILADELPHIA, *January* 29, 1876.

Have looked over all ledgers belonging to C. F. Rumpp, said number being five (5), dating from February 2, 1853, to January 1, 1876, and in the No. 3 ledger, dating from January, 1864, to January, 1868, I find for the first time an account with Geo. B. Bains, January 12, 1867, and he has bought, and I find charged to him for the year 1867, $719.21.

In ledger dating from February, 1868, to July, 1873, I find the firm's name to have been changed to Geo. B. Bains & Son, and on January 24, 1873, I find the first charge to Geo. B. Bains & Sons. The following amounts are booked as follows: Ledger, January 12, 1867, to January 1, 1868, to Geo. B. Bains, $719.21.

Ledger January 1, 1868, to July 1, 1873, I find charged up to January 24, 1873, to Geo. B. Bains & Sons.

The year 1868	$326 23
" " 1869	
" " 1870	2,446 15
" " 1871	3,769 72
" " 1872	7,677 83
	994 35
And up to January, 1873, the 24th, I find for this one month	233 71

From January 24th, 1873, the goods were charged under the name of Geo. B. Bains & Sons.

The year 1873, from January 24th	$6,492 23
" " 1874	441 24
" " 1875	309 60

Q. 17. From what year to what year did you search the books in the manner which you have testified to?

A. From 1853 to 1876.

Q. 18. If there had been purchases by Bains prior to 1867, would or would they not appear on the books you have searched?

A. They would have appeared.

Q. 19. State whether or not Exhibit 32 is a full, correct, and complete statement of the purchases by Bains and his firm?

A. It is.

348 Q. 20. Have you made an extract from the books of C. F. Rumpp showing the amount of rigid bar shawl straps which George B. Bains & Son and George B. Bains & Sons purchased from Mr. Rumpp; and, if so, will you produce the same?

A. I have and I do produce it.

Offered in evidence and marked Defendant's Exhibit 33, B. D., Notary Public.

(Objected to as incompetent and sur-rebuttal.)

Defendant's Exhibit 33.—*B. D., Notary Public.*

The following are the dates and quantity of purchases of rigid bar shawl straps:

1871.					
Aug.	11, 1	Dozen	No. 3		
"	16, ½	"	" 3		
Sept.	6, 2	"	" 3		
Oct.	18, 2	"	" 3		
1872.					
April	17, 1	"	" 3		
May	7, ¾	"	" 3		
"	24, 1	"	" 3		
July	3, 2	"	" 3		
"	25, 1¼	"	" 3		
Aug.	1, 1	"	" 3		
"	9, 1½	"	" 3		
"	13, 1½	"	" 3		Geo. B. Bains & Son.
"	20, 2½	"	" 3		
"	24, 2	"	" 3	the handles only.	
"	27, 1	"	" 3		
Sept.	4, 1	"	" 3		
Oct.	4, ½	"	" 3		
"	9, 2	"	" 3		
Nov.	2, 2	"	" 3		
"	13, 2	"	" 3		
"	18, 5	"	" 3		
Dec.	10, 6	"	" 3		
1873.					
Aug.	29, 2	Dozen	No. 3		
Sept.	3, ½	"	" 6		
"	5, 3	"	" 3	the handles only.	
"	6, 2	"	" 3		
"	19, 2	"	" 3		
Dec.	1, 1	"	" 3		Geo. B. Bains & Sons.
"	8, 1	"	" 3		
1874.					
April	30, 1	"	" 3		
July	13, 1	"	" 3		
	53	dozen.			

The following are a copy of bills bought of Crough & Fitzgerald as copied in invoice book:

Dec. 4, 1868.

3 Dozen No. 1 patent cross bar shawl straps, 10		$30 00
	10%	3 00
		$27 00

349 Oct. 23, 1869.

3 Dozen No. 0 patent shawl straps, 12.....		$36 00
3 " " 0 ladies " " 9		27 00
		$63 00
	10%	6 30
		$56 70

Q. 21. What is the matter on exhibit 33 commencing with the words "the following are a copy"?

A. Two invoices of goods comprising shawl straps bought of Crouch and Fitzgerald taken from the invoice book of C. F. Rumpp and copied from the original invoices with pen and ink by myself.

Q. 22. Do you remember of what material were the bars of the straps which Mr. Rumpp purchased from Crouch and Fitzgerald as per Exhibit 33?

A. I do not.

Q. 23. Do you remember statements made by members of the firm of George B. Bains & Sons with reference to the claims of Crouch on the rigid bar shawl straps, which said firm purchased from Mr. Rumpp?

(Objected to as incompetent, without foundation, and as not sur rebuttal testimony.)

A. I have no recollection of any statements which may have occurred during my absence from the store.

Mr. Barnum waives cross-examination.

F. W. MILLER.

Sworn and subscribed before me this 29th day of January, 1876.

[L. S.] BENJAMIN DANIELS,
Notary Public.

SAMUEL MAHAFFEY, being duly sworn according to law, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. My name is Samuel Mahaffey; age 50 years old; residence 1757 Norwood street, Philadelphia; am saddler and harness maker.

Q. 2. In whose employ were you immediately before the breaking out of the war in 1861?

A. Knorr, Nece & Company.

Q. 3. How long were you in their employ?

A. From September, 1849, up to after the war was over. But Knorr was out of business during the war—Mr. Nece had it.

Q. 4. What did you do for Knorr, Nece & Co. before 1861?

A. I cut out part of the time and done a little most of everything that was made in the shop, made skate straps (complainant objects to any testimony of this witness as to shawl straps as incompetent and not sur-rebuttal), shawl straps both round and flat handles—stiff handles I should have said—I only made one of them.

Q. 5. Who gave you the orders for the work you did at Knorr, Nece & Co., before 1861?

(The answer to question 4 is further objected to on the ground that the witness' name not given in the answer as having prior knowledge of the complainant's invention.)

After objection, question 5 is read to witness.

(Question 5 objected to as immaterial and on the same grounds as to question 4.)

350 A. Wilford Hipple gave the orders.

Q. 6. Did you know Thomas W. Jones, a workman at that place?

A. Yes, sir.

Q. 7. How much time would it have taken for said Jones to go from his room to Mr. Buckley's room and to return while the two were employed at the establishment of Knorr, Nece & Co.?

Witness asks "from the place Mr. Jones worked to the place Mr. Buckley worked?"

A. Well, I suppose it would take him four or five minutes to where Mr. Buckley worked.

(Complainants counsel declines to cross-examine, on the grounds of objections stated to questions 4 and 5.)

SAMUEL MAHAFFEY.

Sworn and subscribed before me this 29th day of January, A. D. 1876.

BENJAMIN DANIELS,
Notary Public.

DANIEL F. BISPHAM, being duly sworn according to law, deposes and says:

Q. 1. What is your name, age, residence and occupation?

A. Name, Daniel F. Bispham; age, 42; residence, 2333 Memphis st., Philadelphia; occupation, trunk and bag maker.

Q. 2. Do you know John Rowen, a trunk and satchel manufacturer of this city?

A. I do; I have known him twenty years to a certainty.

Q. 3. Was he ever in your employ; and, if so, when?

A. He was, and as near as I can recollect it was in 1862.

Q. 4. Do you know his character and reputation for truth and veracity?

A. I do.

Q. 5. What is his character and reputation for truth and veracity?

A. It is good as far as I am able to judge; I have had dealings with him.

Q. 6. So far as you know, did retail boot and shoe dealers deal in shawl straps in Philadelphia in former years?

A. They did.

Cross-examined:

X Q. 7. Did you ever hear John Rowen's character and reputation for truth and veracity discussed?

(Objected to as incompetent.)

A. No more than any other person's.

X Q. 8. (Question repeated.)

A. Not to my knowledge, as to anything against it.

X Q. 9. (Question repeated.)

(Objected to as already answered and incompetent.)

A. To no extent.

D. F. BISPHAM.

Sworn and subscribed before me this 29th day of January, 1876.
BENJAMIN DANIELS,
Notary Public.

351 CHARLES B. TURNER, being duly sworn according to law, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Name, Charles B. Turner; age, 45; residence, 1041 Fairmount avenue, Philadelphia; occupation, I am in the pocket-book business.

Q. 2. Were you ever in the employ of Charles F. Rumpp; and, if so during what time, and what was the nature of your employment?

A. I was in the employ of Charles F. Rumpp for the space of 17 years from November, 1858; I think, I am not sure about that, to January, 1875. I was employed as a salesman.

Q. 3. What kind of a holder did you use for carrying your samples after 1866?

(Objected to as incompetent, on the ground that any evidence of prior use of the plaintiff's invention should have been produced on the defendant's direct case, and specially for the reason that this witness could have then been readily produced.)

A. As near as I can remember, I suppose I should say I am positive, as to this holder. I am positive it was a shawl strap in style with a stiff cross-bar made very large for my special use.

Q. 4. At whose request was that made?

(Same objection made.)

A. At mine.

Q. 5. State whether or not you invented that style of bundle-holder, and, if not, where you had seen it before.

(Same objection made.)

A. I did not invent it, but took it from styles I had seen for use and for sale, as near as I can remember, at our store; I mean Mr. Rumpp's store.

Q. 6. When was that bundle-holder made for you?

(Same objection.)

A. I cannot remember the date, but it was in the year 1866. I think in the fall of that year.

Q. 7. Do you know John Rowen, a satchel maker of this city, and, if so, how long have you known him?

A. I do know John Rowen; can't state how long I have known him. I should think from eight to ten years.

Q. 8. Do you know his reputation for truth and veracity?

A. I know nothing against his reputation for truth and veracity.

(Complainant's counsel declines to cross-examine, on the grounds stated in objection to questions 3 and 6 inclusive, and further, because it is not alleged in the answer that the witness had any knowledge of the prior use of the invention described in complainant's patent.)

C. B. TURNER.

Sworn and subscribed before me the 29th day of January, A. D. 1876.
[L. S.] BENJAMIN DANIELS,
Notary Public.

FRANK H. WATT, being duly sworn according to law, deposes and says:

Q. 1. What is your name, age, residence and occupation?

A. Frank H. Watt; age, 42 years old; residence, 1445 North 11th st., Philadelphia; occupation, trunk manufacturer.

352 Q. 2. State whether or not you have made shawl-straps in this country with rigid bar; and if so, when first and where.

(Objected to on the grounds that this witness is not named in the answer as having any knowledge of the invention described in complainant's patent, and that it is not proper surrebuttal testimony.)

A. Why I did during the breaking out of the war, in the city of Columbus, Ohio. I did not make a business of them. I am a practical mechanic myself, and parties came in and explained the necessity of having something made that wouldn't pinch their hand while carrying.

Q. 3. Did you, at the request of the complainant, make an affidavit, May 20, 1875, before G. M. Thurston, notary public; and if so, is the paper now shown you a true copy of the affidavit signed by you?

A. I believe it is, to the best of my knowledge.

Q. 4. State whether or not Mr. Barnum and Mr. Fitzgerald, now present, were with you when you executed that affidavit or shortly before.

A. I disremember whether they went with me or not when I executed that affidavit. They showed me the affidavit before I signed it.

Q. 5. State whether or not you then told them that you had made such straps in Columbus and caused the words "or elsewhere" to be erased before you would execute it.

(Objected to as leading and immaterial and not surrebuttal.)

A. Yes, sir; that is exactly what I told them.

Q. 6. Are you acquainted with George B. Bains, of this city?

A. I am.

Q. 7. Did you converse with him on the subject of stiff-bar shawl-straps, and tell him that you had made them in Columbus?

(Objected to as immaterial, incompetent and not surrebuttal.)

A. Mr. Bains and myself have had frequent conversations relative to business matters appertaining to our legitimate business, and I have no doubt that I have spoken to him on that subject, but am not positive of the same.

The affidavit shown witness is marked for identification Watt affidavit, January 29th, 1876. B. D., notary public.

Watt affidavit, January 29, 1876.—B. D., notary public.

EASTERN DISTRICT OF PENNSYLVANIA,
City of Philadelphia, ss:

FRANK H. WATT, being duly affirmed, deposes and says that he resides at Philadelphia.

That for ten years last past he was engaged in business at the city of Philadelphia as a manufacturer and dealer in trunks, bags, shawl-straps, and other leather work in that line, and was thoroughly familiar with the progress of the art in relation thereto.

That he was well acquainted with the trade and the business houses in that city who, during those years, were engaged in that business, dealing with them and frequently visiting their respective establishments and buying goods of them.

That he was observant of all new improvements in articles dealt in by him, and his house was old and well-known, and did an extensive business.

That his facilities for knowing of the introduction of new or improved articles of the character stated were excellent.

And deponent further says, that he knows the rigid cross-bar shawl-strap claimed by letters patent to George Crouch, and that deponent never knew or heard of shawl-straps containing a rigid cross-bar

353 being manufactured and offered for sale by any house in Philadelphia prior to the introduction of Crouch's patented strap.

That so far as deponent knows the rigid cross-bar strap was first introduced and put on the market by said Crouch.

And deponent further says that, in his judgment, the introduction of a rigid cross bar into a shawl-strap was a great and valuable improvement upon the straps theretofore made, and that since their introduction into market by said Crouch they have almost entirely superseded the old style of straps.

FRANK H. WATT.

Subscribed and affirmed before me this 20th day of May, 1875.
[L. S.] GEO. M. THURSTON,
Notary Public.

Complainant's counsel declines to cross-examine on the grounds stated in objection to question 2.

FRANK H. WATT.

Sworn and subscribed before me this 29th day of January, 1876.
[L. S.] BENJAMIN DANIELS,
Notary Public.

THEODORE E. FREEMAN, being duly sworn according to law, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Name, Theodore E. Freeman; age, 39; residence, 907 Beach st., Philadelphia; occupation at present, satchel maker.

Q. 2. Do you know John Rowen, here present; and if so, how long have you known him?

A. I do know him, and have known him since 1864.

Q. 3. Have you had dealings with him?

A. I have.

Q. 4. From your knowledge of his dealings with you and acquaintance with him, would you believe him under oath?

(Objected to as incompetent and without foundation.)

A. I would.

Q. 5. Do you know George B. Bains, of this city, trunk-maker?

A. I do.

Q. 6. State whether or not you have conversed with him on the subject of rigid bar shawl-straps.

(Objected to as immaterial and not surrebuttal.)

A. I have.

Q. 7. What did he say to you regarding the same and regarding the first use thereof in this country?

(Objected to as immaterial, incompetent, and not surrebuttal.)

A. As far as I can recollect, Mr. Bains told me that the first straps—that is, rigid bar straps—he sold was purchased from the patentee, Crouch and Fitzgerald. He told me that the first he saw was rigid cross-bar, or something to that effect, sent to the shop to be repaired.

Q. 8. Did he tell you whether that strap was sent to him to be repaired before or after 1868?

(Objected to as leading and same objection as to previous question.)

354 A. I think he told me, if I am right, that that strap was sent there before he saw any patent strap.

Q. 9. How long have you had dealings with Mr. Bains?

A. The first dealings I had with him was in 1864; after that I had no more dealings with him until within the last six months, being as I was out of that business.

Q. 10. What dealings had you with him in 1864?

(Same objection as to question 7.)

A. I sold him, I think it was ten dozen folio trunks.

Cross examined:

X Q. 11. Do you know Mr. Fitzgerald here present?

A. I do, sir; I didn't know his name until now I hear it.

X Q. 12. How did you make his acquaintance?

(Objected to as not cross-examination.)

A. I sent him a note; I mean to the firm of Crouch & Fitzgerald.

X Q. 13. Did you receive a reply?

(Same objection.)

A. Yes, sir.

X Q. 14. Where is that reply?

(Same objection.)

A. I don't know; I have got it somewheres, or maybe it is lost.

X Q. 15. When did you see it last?

(Same objection.)

A. I can't state certainly.

X Q. 16. Did you send any other letters or telegrams to Crouch and Fitzgerald?

(Same objection.)

A. I have.

X Q. 17. How many?

(Same objection.)

A. That I can't positively state; I don't keep no record.

THEODORE A. FREEMAN.

Sworn and subscribed before me this 29th day of January, 1876.

[L. S.] BENJAMIN DANIELS,
Notary Public.

JAMES MCCABE, being duly sworn according to law, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. James McCabe; age, about 42; residence, 421 Stockton st., Philadelphia; and occupation, a trunk maker.

Q. 2. Do you know John Rowen here present; and, if so, how long have you known him?

A. I have known him, as near as I can recollect, about six or seven years.

Q. 3. Do you know his general reputation for truth and veracity?

A. I can't say that I do; I haven't much dealing with the man; I know nothing against him or in his favor.

Q. 4. In whose employ were you in the year 1874?

A. George B. Bains.

Q. 5. When did you leave him?

A. The latter part of May, 1875.

355 Q. 6. While in his employ do you remember that Mr. Rowen left some samples of leather at Mr. Bains' establishment; and if so, do you know to whom these samples were finally delivered?

(Objected to as immaterial and incompetent.)

A. I recollect that samples were left; they weren't all delivered;

some were delivered and some remained; those that were delivered were delivered to Mr. Rowen.

Q. 7. What became of the part that was not delivered?

(Same objection.)

A. Mr. Rowen only asked for one bundle and delivered that, and I know nothing at all about the other.

Q. 8. How came you to deliver that to Mr. Rowen?

(Same objection.)

A. By an order from Mr. Bains.

Cross-examination waived.

JAMES McCABE.

Sworn and subscribed before me this 29th day of January, A. D. 1876.

[L. S.] BENJAMIN DANIELS,
Notary Public.

Adjourned to three o'clock.

Met pursuant to recess.

ADOLPHUS Y. ANDREWS, being duly sworn according to law, deposes and says:

Q. 1. Have you testified in this case before?

A. I have.

Q. 2. Do you know Isidore Bremer, a clerk in the employ of George Crouch? If so, when first did you see him?

A. I do; about two years ago.

Q. 3. Where and what was his errand?

A. In C. F. Rumpp's store. He called upon a question of an infringement on shawl straps.

Q. 4. Who was present when first he called?

A. Mr. Rumpp, C. B. Turner, F. W. Miller, and myself.

Q. 5. How often did he call on the same day when first you saw him?

(Objected to as leading and incompetent.)

A. He called twice.

Q. 6. At which of these two visits was Mr. Rumpp present?

A. The last one, in the afternoon.

Q. 7. When next did you see Bremer?

A. The following morning.

Q. 8. State what occurred on the following morning when, as you say, Bremer called for the third time?

(Objected to as not sur-rebuttal.)

A. We bought quite a bill of shawl straps.

Q. 9. How came you to buy them?

(Objection to as incompetent and immaterial.)

A. We believed by making large purchases that the question of infringement would be dropped.

Q. 10. State whether or not an order was solicited by Bremer during his first and second visits, and give your full recollection on that point.

(Objected to as not sur-rebuttal.)

A. He did solicit an order on his second visit, but as he and
356 Mr. Rumpp had become very much excited in discussing the infringement question they concluded to postpone purchases until the morning.

Q. 11. State whether or not Bremer had his samples with him on the occasion of his second visit.

(Same objection.)

A. I did not see them.

Q. 12. Did any one accompany Bremer during these visits; and, if so, who and on which visit?

A. Mr. Crouch's son accompanied him on his second visit.

Q. 13. Did he on the third?

A. He did not.

Q. 14. Said Bremer testified that at the end of the second visit Mr. Rumpp asked him whether he should give him a check for the amount of royalty; what is your recollection on that point?

A. No check was offered Mr. Bremer. If one would have been offered, I would have made it out, as I always attended to those matters, especially under the excitement that prevailed at that time.

Q. 15. I did not say that Bremer testified that the check was offered. Please hear question 14 read again.

A. Mr. Rumpp did not use those words.

Q. 16. If a check or money had been tendered to Mr. Bremer would you know it?

A. I would.

Q. 17. Said Bremer testifies also that you made a statement of rigid bar shawl 'traps made and imported by Mr. Rumpp, and that after it was submitted to him you called Mr. Rumpp's attention to the fact that the said statement did not contain mention of certain shawl straps under way from Europe. State whether or not you did call Mr. Rumpp's attention to such an omission.

A. I did not call his attention to it.

Q. 18. Are you acquainted with George B. Bains and with the members of his firm?

A. I am.

Q. 19. How often did George B. Bains call on Mr. Rumpp or at his establishment prior to 1867, on the average?

A. Prior to 1867, I do not remember ever seeing him there.

Q. 20. Had he called frequently during that period would you have been likely to see him?

A. I would.

Q. 21. Did you have or overhear any conversation with said Bains or his firm relative to the validity of Mr. Crouch's claim for a patent for a rigid bar shawl strap? and, if so, state what was said by said Bains or his firm.

(Objected to as immaterial and incompetent and not sur-rebuttal.)

A. I had a conversation with Mr. Joseph P. Bains, in reference to the patents. He ridiculed the idea and claimed that he would buy from the cheapest manufacturer and let the other parties fight it out themselves.

Q. 22. State whether or not said George B. Bains was in the habit of purchasing large quantities of rigid bar shawl straps of Mr. Rumpp's manufacture prior to the year 1874.

(Objected to as immaterial.)

A. He was.

Q. 23. Do you know John Rowen here present; and, if so, how long have you known him?

357 A. I do know him. I have known him for about five years.

Q. 24. Do you know his reputation for truth and veracity?

A. I do.

Q. 25. What is his reputation for truth and veracity?

A. It is good.

Q. 26. State whether or not his general bearing in the community is good or bad.

(Objected to as incompetent and immaterial.)

A. Good.

Cross-examined:

X Q. 27. Did you ever hear John Rowen's reputation for truth and veracity discussed?

A. I did.

X Q. 28. When, where, and by whom?

A. Last evening at 1020 Callowhill st., Philadelphia, by Mr. Rumpp, Mr. Miller and myself; also at Mr. Rumpp's store several times.

A. Y. ANDREWS.

Sworn and subscribed before me this 29th day of January, 1876.

[L. S.] BENJAMIN DANIELS,
Notary Public.

J. FLETCHER CONRAD, being duly sworn according to law, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. J. Fletcher Conrad; age, 35; residence, 1627 Vine street, Philadelphia; occupation, a merchant—men's furnishing goods.

Q. 2. Of which firm are you a member?

A. Conrad Brothers.

Q. 3. State whether or not your firm deals in shawl straps.

A. We do, very slightly, though.

Q. 4. State whether or not your firm bought shawl straps of Mr. C. F. Rumpp in this city in the year 1867; and, if so, whether you have the bill of said Rumpp relating to such purchase and would produce it.

(Objected to for the reasons this witness is not named in the answer as having a knowledge of prior use of the invention described in complainant's letters patent, and because it is not proper sur-rebuttal evidence.)

A. We did buy shawl straps in that year of Mr. Rumpp; we have the bill and do produce it.

Bill offered in evidence and marked Defendant's Exhibit 35, B. D., notary public.

(Objected to on same grounds.)

358 *Defendant's Exhibit 35.—B. D., Notary Public.*

[Manufacturer & importer of pocket-books, portemonnaies, segar-cases, money-belts, satchels, purses, cabas, bankers' cases, dressing-cases, writing-desks, portfolios, writing-cases, bill-books, &c., &c. All kinds of leather-work made to order.]

PHILADELPHIA, *Dec. 14th*, 1867.

Messrs. Conrad Bro's bought of C. F. Rumpp, No. 118 *North Fourth st., above Arch.*

¼	Dz.	shawl straps	8.50	2 13
⅙	"	satchels 2 w 677	33.00	5 50
		39—2250—		
1/12	"	" " " 678....703		5 12
⅙	"	card cases 11.34	17.50	2 91
		25.50.....15.....	19.50	

1/12	Dz.	P. B	463	467	735	5 00
1/12	"	dressing cases	414		12.00	1 00
			102		157.50	
1/12	"	" "	6,008		43.92	21 62
1/12	"	scissors in cases	2 w 309		28.50	2 38
						45 66

(Indorsed on back:) C. F. Rumpp. $45.66. Dec. 14, 1867. E. Paid. Complainant's counsel declines to cross-examine on the same grounds.

J. FLETCHER CONRAD.

Sworn and subscribed before me this 29th day of January, 1876.

[L. S.] BENJAMIN DANIELS,
Notary Public.

WILLIAM H. DAVIS, being duly sworn according to law, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. William H. Davis; age, 30; residence, 625 Diamond st., Philadelphia; occupation, pocket-book manufacturer, dealer in shawl-straps.

Q. 2. How long have you lived in Philadelphia?

A. Thirty years.

Q. 3. Do you know John Rowen here present, and how long have you known him?

A. I do; have known him about sixteen or eighteen years.

Q. 4. Do you know his reputation for truth and veracity?

A. I do.

Q. 5. What is his reputation for truth and veracity?

A. Good.

Q. 6. If his reputation were bad in this city, would you be likely to know it?

359 (Objected to as immaterial and incompetent, and without foundation.)

A. I think so.

Q. 7. As far as you know the shawl-strap trade, were retail boot and shoe dealers in Philadelphia in former years in the habit of dealing in shawl-straps?

A. They were.

Cross-examined:

X Q. 8. Did you ever hear John Rowen's reputation for truth and veracity discussed?

A. I did.

X Q. 9. When, where, and by whom?

A. At the store to-day by C. B. Turner, F. W. Miller, and myself.

W. H. DAVIS.

Sworn and subscribed before me this 29th day of January, A. D. 1876.

[L. S.] BENJAMIN DANIELS,
Notary Public.

Defendant's counsel states that he desires to examine James Kite, who resides at No. 2450 Braddock street, Philadelphia, and who is confined to his room by sickness, and requests complainant's attorney to accompany him and the officer to said Kite's residence, to take his deposition.

It is agreed between counsel that the testimony taken to-day, and yet to be taken to-day, before Benjamin Daniels, esq., notary public, be filed in the court by defendant's attorney.

James Kite, the sick witness above named; deposition taken at his residence, 2450 Braddock street, Philadelphia, at six o'clock p. m., on January 29th, 1876.

Present, counsel for both complainant and defendant.

JAMES KITE, being duly sworn according to law, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. James Kite; age, in my 30th year; residence, 2450 Braddock st., Philadelphia; occupation, shoe-cutter.

Q. 2. Were you ever in the employ of John Rowen, satchel-maker, of this city; and, if so, when?

A. Yes, sir; I was in his employ in 1864.

Q. 3. What kind of work did Rowen at that time make?

(Objected to as not sur-rebuttal, and as intended to bring out knowledge of prior use of complainant's invention. It is objected to on the ground that witness is not alleged in the answer to have such knowledge, and also as immaterial.)

A. He made various kinds of works, such as shawl-straps, book-straps, skate-straps, satchels, valises, trunks, and such work.

Q. 4. When and where did you first see shawl-straps having stiff cross-bars beneath their handles?

(Same objection, and as leading.)

A. The first shawl-strap I ever saw with a stiff bar was in Mr. Rowen's place, and it was made there. It was in 1864, in latter part of the summer, *of* beginning of the fall.

360 Q. 5. Do you know Mr. Rowen's character for truth and veracity, and also his reputation on these points?

A. Yes, sir; I have always known him to be a truthful man from his boyhood up; I never heard aught or found *ought* against him.

JAMES KITE.

Complainant's counsel declines to cross examine for reasons stated in objection to question 3 and 4.

Sworn and subscribed before me this 29th day of January, A. D. 1876.

BENJAMIN DANIELS,
Notary Public.

Adjourned for further testimony on behalf of defendant at 258 Broadway, New York City, on Thursday, February 3rd, 1876, at 11 o'clock a. m.

I, Benjamin Daniels, a notary public for the commonwealth of Pennsylvania, residing in the city of Philadelphia, do hereby certify that the foregoing depositions of Edward Gamble, Frederick W. Miller, Samuel Mahaffy, Daniel F. Bispham, Charles B. Turner, Frank H. Watt, Theodore E. Freeman, James McCabe, Adolphus Y. Andrews, J. F. Conrad, William H. Davis, and James Kite, were this day duly taken, subscribed and sworn to before me, and that the foregoing deposition is a true record of the testimony given by said witnesses and of their answers to the respective interrogatories and cross interrogatories.

Certified under my hand and seal this 29th day of January, A. D. 1876.

BENJAMIN DANIELS,
Notary Public, 115 *South 7th st., Philadelphia.*

NEW YORK, *February 3rd*, 1876.

Met pursuant to adjournment. Present, counsel as before.

BOLTIS MOORE SEGEE, a witness called on behalf of defendant, being duly sworn, testified as follows:

Q. 1. What is your age, residence, and occupation?

A. 55 years; I reside at 100 East 54th st., New York City; I am not in any particular business just now; my business is trunks and saddlery.

Q. 2. How long have you been in the trunk and saddlery business, and in which city did you carry it on?

A. Since 1848 in the city of New York.

Q. Since when are you out of that business?

A. Since 1871.

Q. 4. Were you acquainted with the general trade in shawl straps at the time you were in the trunk and saddlery business?

A. Yes, sir.

Q. 7. Did you while in business know of the business in shawl straps carried on by one J. Eustace in this city?

A. No, sir; I knew Mr. Eustace by reputation. I knew of his being in the trunk business. I don't know that he confined himself to shawl straps.

Q. 6. Said Eustace testifies that he thinks the first rigid bar shawl straps were used in this country after 1868; state what your knowledge is on that point.

361 (Objected to on the grounds, first, that said Eustace has not so testified; second, that it is not proper sur-rebuttal; third, that if it is intended to introduce evidence of knowledge of prior use of complainant's invention by this witness it is incompetent.)

A. I made them and sold them in 1852.

(Answer objected to on the same grounds as to the question, and further, because this witness is not named in the answer herein as having such knowledge.)

Q. 7. State whether or not you continued to make and sell them after 1852; and whether or not it was part of your regular business to make and sell the same.

(Same objection as to previous question and answer.)

A. Yes, sir.

Q. 8. Do you know Crouch & Fitzgerald, of this city, personally?

A. I know Mr. Fitzgerald, not Mr. Crouch?

Q. 9. State whether or not Mr. Fitzgerald had knowledge of your prior making and selling of rigid bar shawl straps.

(Objected to as not sur-rebuttal, and for the grounds before stated, and as incompetent.)

A. I do not know.

Q. 10. State whether or not you spoke to him or a member of the firm of Crouch and Fitzgerald on this subject.

(Same objection.)

A. Yes, sir.

Q. 11. State, as near as you remember, the conversation in question.

(Same objection, and as immaterial.)

A. I told Mr. Fitzgerald that I had made them at least fifteen years ago. That's about all that I remember.

(Counsel for complainant declines to cross-examine on the grounds stated to Q. 6, Q. 7, Q. 9, Q. 10, and Q. 11, and Ans. Q. 6.)

B. M. SEGEE.

Subscribed and sworn to before me this 3d day of February, 1876.

ERNEST C. WEBB, (No. 4.)
Notary Public, N. Y. County.

HENRY BERGER, a witness called on behalf of defendant, being duly sworn, testified as follows:

Q. 1. What is your age, residence, and occupation?

A. I am 59 years of age; my occupation is modeller and designer, and I reside 97 4th avenue, New York City.

Q. 2. Do you know Franz Meinberg, of this city; and, if so, how long have you known him, and where did you know him, and when?

A. I know Franz Meinberg about 15 or 16 years; the first acquaintance I made with him was in a lodge that he belonged to and I belonged to, Independent Order of Odd Fellows, No. 82, German Oak. I made his acquaintance in the lodge, and then he moved in my neighborhood a few years after I made his acquaintance. First off he moved in 101 East 11th st., corner of 4th avenue and 11th st. He didn't live there; he had a little shop in the basement. The entrance to that basement was in 11th st. Then he moved from there in 99 4th ave.

(Answer objected to as not sur-rebuttal.)

362 Q. 3. What office, if any, did Meinberg have in said lodge?

(Objected to as immaterial.)

A. He had small offices, and the highest he had was treasurer.

Q. 4. Do you know Mr. Meinberg's reputation for truth and veracity?

A. Yes.

Q. 5. What is Mr. Meinberg's reputation for truth and veracity?

(Objected to as without proper foundation.)

A. Well, as much to my knowledge it is good; I never heard anything contrary or against him.

Q. 6. If his reputation were not good, would he have been intrusted with the office of treasurer by his lodge?

(Objected to as immaterial and incompetent.)

A. No.

Q. 7. How did he perform his duties while treasurer of the lodge?

(Same objection.)

A. To my knowledge good and regular.

Q. 8. State whether or not you know that Mr. Meinberg is also the president of a benevolent society in this city?

(Same objection and irrelevant.)

A. I don't know.

Q. 9. Do you remember that Meinberg, while in 4th ave., had a show-case in front of his establishment?

(Objected to as not sur-rebuttal.)

A. Yes, sir.

Q. 10. Do you remember the contents of that show-case, and more particularly do you remember whether there were dog-collars and bundle-straps or shawl-straps contained therein?

(Objected to as not sur-rebuttal, and if it is intended to give evidence of knowledge by this witness of prior use of complainant's invention it is incompetent for the reason that this witness is not named in the answer as having such knowledge, and as leading.)

A. I remember dog-collars, one small one made in small size as sample. I saw some straps, but I don't know what they were used for. I don't know the technical name. The show-case was a small affair.

Q. 11. State whether you know Mr. Meinberg to have made dog-collars while you knew him in 4th ave.

A. Yes, sir.

Q. 12. State whether or not while Mr. Meinberg was in 4th ave. you

were requested by him to make designs; and, if so, whether or not you know what purpose these designs were intended to serve.

(Same objection as to Q. 10, and as leading, immaterial, and irrelevant and incompetent.)

A. Mr. Meinberg requested me to make designs for him for embroidery, and as far as I know they were intended for straps, but I don't know the name of the straps. They were about two inches wide; it is so long ago, I forget the exact size.

Counsel for complainant declines to cross-examine on the grounds objected to questions and answers 2, 5, 6, 7, 8, 9, 10, and 12.

HENRY BERGER.

Subscribed and sworn to before me this 3d day of February, 1876.

ERNEST C. WEBB, (No. 4.)
Notary Public, N. Y. County.

363 FREDERICK HAMM, a witness called on behalf of defendant, being duly sworn, testified as follows:

Q. 1. What is your age, residence, and occupation?

A. 50 years; 613 West 52nd st., New York City; fresco painting.

Q. 2. Do you know Franz Meinberg, of this city; and, if so, how long have you known him?

A. About 15 years.

Q. 3. Do you know his reputation for truth and veracity; and, if so, state what you know in regard to the same?

(Objected to as without foundation, and as incompetent.)

A. Good. All what I know about him, I must say he is a characterful and true man.

Cross-examination declined.

FREDERIC HAMM.

Subscribed and sworn to before me this 3d day of February, 1876.

ERNEST C. WEBB, (No. 4.)
Notary Public, N. Y. County.

EMANUEL PERLS, a witness called on behalf of defendant, being duly sworn, testified as follows:

Q. 1. What is your age, residence, and occupation?

A. My age is 40; residence 93 St. Mark's Place; occupation, district agent for the Hildise Bund and general agent for the Metropolitan Life Insurance Company of New York, and notary public.

Q. 2. Do you know Franz Meinberg, of this city; and, if so, how long have you known him?

A. I know him since 1869.

Q. 3. State whether or not he is a member of the Hildise Bund; and, if so, what office he holds in the same.

A. Well, he is a member since about four years, and is vice-president of one section of the Bund.

Q. 4. How many members about has the Hildise Bund, and what is the object of that society?

(Objected to as immaterial and incompetent.)

A. About fifteen thousand members. The object is sick relief and insurance.

Q. 5. State whether or not as a member of that society you have become acquainted with Meinberg's reputation for truth and veracity; and, if so, what his reputation is.

(Objected to as immaterial and incompetent, and without proper foundation.)

A. Well, he is as far the society knows and as far as I know as a man of very honest and good standing. Otherwise he would not become an officer of the society.

(Complainant's counsel declines to cross examine on grounds stated in the objection.)

EMANUEL PERLS.

Subscribed and sworn to before me this 3d day of February, 1876.

ERNEST C. WEBB, (No. 4.)
Notary Public, N. Y. County.

Adjourned to 2 p. m. for recess.

2 p. m. Met pursuant to adjournment.

364 WILLIAM HANLON, a witness called on behalf of defendant, being duly sworn, testified as follows:

Q. 1. What is your age, residence, and occupation?

A. My age is about 48; residence, 250 Mullberry st., New York City; occupation, harness maker.

Q. 2. Do you know Franz Meinberg, of this city; and, if so, did you ever work in the same shop with him?

(Objected to as leading.)

A. As to the word Franz, the individual I knew we used to call Aleck; but I know it is the same individual. I worked in the same shop with him.

Q. 3. When did you work in the same shop with him, and whose shop was it?

A. I worked in the same shop with him, I think, about 16 years ago; the shop belonged to P. Trainor.

Q. 4. Did you, while working with him, and afterwards become acquainted with his reputation for truth and veracity?

A. Yes.

Q. 5. What is his reputation for truth and veracity?

(Objected to as without proper foundation.)

A. As far as my acquaintance, good.

Q. 6. State whether or not he was upright and honest in his bearings and dealings?

(Objected to as immaterial and incompetent and as leading.)

A. Always honest as far as I knew, never heard anything to the contrary.

Cross-examined:

X Q. 7. Did you ever hear his reputation for truth and veracity discussed?

A. We often heard him talked among ourselves and never heard a word against him, either for truth or veracity.

X Q. 8. Did you ever hear his reputation as a truth-telling man talked about?

(Objected to as already answered.)

A. Why, I can't say exactly whether that question of a truth telling man come up; I never heard him charged with being a liar. My impression was, we always understood him to be an honest man and a man of truth.

X Q. 9. Did you ever hear any one say anything about his being a truthful man?

A. I never heard any one that knew him to be a liar or stated of him.

Redirect:

Rd. Q. 10. If his reputation for truth and veracity were bad, would you be likely to know it?

(Objected to as immaterial and incompetent.)

A. I think so.

Re-cross:

Re X Q. 11. What do you understand by veracity?

(Objected to as calling for an opinion.)

A. Truthfulness to be in reality what it pretends or appears to be.

WILLIAM HANLON.

Subscribed and sworn to before me, this 3d day of February, 1876.

ERNEST C. WEBB, (No. 4,)
Notary Public, N. Y. County.

Adjourned to Tuesday, the 8th inst., at 1. p. m.

365 NEW YORK, *February 8th*, 1876.

Adjourned to Thursday, the 10th inst., at 1 p. m.

NEW YORK, *February 10th*, 1876.

Met pursuant to adjournment. Present, counsel as before.

Defendant's counsel offers in evidence certified copy of the file wrapper and contents in the matter of the interference of Franz Meinberg against E. Bartlett on their applications for patents for brow bands of harness, and the same is marked Defendant's Exhibit No. 36, February 10th, 1876, E. C. W., Notary.

(Objected to as immaterial, incompetent, and not proper sur-rebuttal and not complete.)

Defendant's Exhibit No. 36.—February 10, 1876, E. C. W., Notary.

The U. S. Patent Office to all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the files of this office of the file wrapper and contents of application of Francis Meinberg, filed September 20th, 1872, in the matter of the interference Francis Meinberg vs. E. Bartlett, for improvement in brow bands of harness.

In testimony whereof I, Ellis Spear, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-sixth day of October, in the year of our Lord one thousand eight hundred and seventy-five, and of the Independence of the United States the one hundredth.

[L. S.]

ELLIS SPEAR,
Acting Commissioner.

In the matter of the application of Francis Meinberg for improvement in brow bands of harness, filed September 20, 1872; allowed October 5, 1872; balance fee paid October 15, 1872; and of the proposed interference between the same and an application by Mrs. Emma Bartlett.

To the Honorable M. D. LEGGETT, *Commissioner of Patents:*

SIR: Following is the sworn statement of Meinberg called for by the official letter dated October 28, 1872.

The present invention is one of several which I have long been maturing, relating to front bands. I believe that I am the first inventor both of the combination and of the concave spring adapted for or used in front bands.

I made the invention of a concave spring for this purpose as early as May 1st, 1852. I was then just starting business for myself as a fancy saddler at Union Hill, near West Hoboken, New Jersey. I desired to make an exhibition of light and very strong and beautiful work in the Crystal Palace, in New York, in the succeeding year, and commenced to make for that purpose front bands having each a concave spring. The springs were made of sheet zinc. I induced the concave condition by rolling through a pair of metal rollers, one swelled and the other hollowed. I afterwards bent the springs to the proper curvature to go around the head.

I attached much importance to the concave spring, and have continued to do so ever since.

I had a machine made that year (1852) to roll the concave spring. It was constructed by a Frenchman or Alsatian by the name of Charles Fleischell; he had a shop at No. 45 Greene street, in New York City.

I finished some of the work, including two of the front bands complete, having concave sheet-metal springs tastily covered with leather, and then was taken sick. I was sick during the whole of 1853, and some time afterwards. On recovering, I was obliged to hire out to work for other parties. I did not exhibit in 1853, as I had intended, and cannot now find any of the finished work. I have a portion of the rolling machine made at that time.

I have since worked for various parties, and never ceased to endeavor to develop a perfect front band, and particularly this improvement with the concave spring.

In 1863 I started business for myself at 99 Fourth avenue.

366 In 1867 I made another lot of concave springs of sheet zinc properly covered with leather. I found that I could roll them in a tinner's machine, and produced these in that manner, my original machine having been broken. I made about half a dozen front bands as tasty as I was able with these concave springs within, and tried to introduce them to the trade. I carried specimens to Messrs. Harmer, Harris & Co., 72 Beekman street, and another to C. B. Schmidt & Co., 40 Warren street. I did not succeed in getting any orders, but the front bands were left at these places and attracted some attention within the several firms and were, I presume, shown by them to many of their customers.

One of the firms, C. B. Schmidt & Co., has preserved a pair of the bands.

In October, 1871, I commenced to work for Mrs. Emma Bartlett, corner of College Place and Warren street, who is, I presume, my present opponent. I was foreman for her seven months. I left her employ about the first of May, 1872.

During my engagement with her I worked some at home evenings, and got up several attractive styles and showed them to her. I think I did not so make and show any with the concave spring, but might have done so. One which I showed her was the kind which I patented during that period, viz, the 12th March, 1872. Since leaving her I have again made some specimens of the style which I am now about patenting, and have showed them to her.

I have seen her at very short intervals ever since, and am not now certain when I first showed it to her.

I know that I showed a sample of that which I am now seeking to patent, to the same Mrs. Emma Bartlett, on the 16th day of August, 1872, and I told her then that I had applied or was about applying for a patent for it. The specimen I then showed her was a nicely finished one, but a little later I took to her and showed her specimens of the springs and of other parts so as to show the bands in a partly finished condition. I showed her the whole, and explained to her the advantages of the invention; she said then that as soon as I was in possession of the patent, she was willing to purchase the patent right from me, but no price was named, either by me or by her; she also wished me to work for her again in her factory. She made no claim that she had ever invented the same thing. She did not claim that she had any knowledge before either of the whole or of any part of the invention. She said on one occasion, "You are the inventor and I have the capital, we shall work well together." The nearest that I remember to any stipulated price being named, which she should give me for the invention or the patent, was an offer by her that she would pay me $35 per week for my services, and also a royalty, without naming how much royalty, but a royalty on each of the front bands made. Another offer she then made, was one hundred dollars for the whole patent. That was about the time of my payment of the balance of fee, about the middle of October, 1872. I declined the arrangement, and, on leaving, she said, "Well, let me know as soon as you have your papers."

FRANZ MEINBERG.

Sworn to before me, November 4, 1872.

[L. S.] GEORGE M. VAN HOSEN,
Notary Public, City and County of New York.

In the matter of a proposed interference between applications by F. Meinberg and Mrs. E. Bartlett, on front bands for harness.

To the honorable M. D. LEGGETT,
Commissioner of Patents.

STATE OF NEW YORK,
City and County of New York, ss:

Alfred J. Westbrook, of New York City, being duly sworn, deposes and says he knows Franz Meinberg and Emma Bartlett; that on election day, November 5, or the previous day, deponent went with Meinberg, at his request, to be present at an interview between those parties at Mrs. Bartlett's store; that then and there Mrs. Bartlett admitted in the presence of deponent that Meinberg was the inventor, and endeavored to buy the invention from him; she used these words, addressing Mr. Meinberg: "Mr. Meinberg, it is your invention, and I am willing to give you eight hundred dollars for it; you can have the check this afternoon for it." Deponent has no interest in the invention, and makes this affidavit with a view to aid the Patent Office in understanding the case, to avoid litigation.

ALF'D J. WESTBROOK.

CITY AND COUNTY OF NEW YORK, *ss:*

I certify that the affidavit on the other side of this sheet was sworn to before me by Alfred J. Westbrook, whose name is subscribed thereto, on this 11th day of November, A. D. 1872.

GEORGE M. VAN HOSEN,
Notary Public, City and County of New York.

In the matter of the preliminary interference between the applications of Emma Bartlett and Franz Meinberg, for letters patent for "front bands for harness." Before the examiner of interferences.

The later applicant, Bartlett, has filed no statement as required
367 by the 53d rule, and her opponent is, therefore, entitled to an immediate decision of the case upon the evidence furnished by the office records. Meinberg's application was filed September 19th, 1872; that of Bartlett, October 7th, the same year. In accordance with rule 57, Meinberg must be considered the first inventor, and priority is therefore awarded to him.

JOS. H. ADAMS,
Examiner of Interference.

U. S. PATENT OFFICE,
November 14, 1872.

DEPARTMENT OF THE INTERIOR,
U. S. PATENT OFFICE,
Washington, D. C., November 14, 1872.

FRANZ MEINBERG,
(Care T. D. Stetson,)
16 *Murray Street, New York City:*

Please find below a copy of a communication from the examiner of interferences in the matter of the interference between your invention and that of Emma Bartlett for front bands for harness.

An appeal may be taken from the decision of the examiner within 20 days.

(See section 42 of the act of July 8, 1870.)

Very respectfully,

Commissioner.

ROOM No. 8.

In the matter of the preliminary interference above referred to, upon which an examination was appointed for the 8th day of November, 1872, the question of priority of invention has been decided in Meinberg's favor.

JOS. H. ADAMS,
Examiner of Interference.

DEPARTMENT OF THE INTERIOR,
U. S. PATENT OFFICE,
Washington, D. C., November 14, 1872.

Miss EMMA BARTLETT,
(Care Alexander & Mason,)
Washington, D. C.:

Please find below a copy of a communication from the examiner of interferences in the matter of the interference between your invention and that of Franz Meinberg, for front bands for harness.

An appeal may be taken from the decision of the examiner within 20 days.

(See section 42 of the act of July 8, 1870.)

Very respectfully,

Commissioner.

ROOM NO. 8.

In the matter of the preliminary interference above referred to, upon which an examination was appointed for the 8th day of November, 1872, the question of priority of invention has been decided in Meinberg's favor.

JOS. H ADAMS,
Examiner of Interferences. 236.

Interference.
No. 909.
1872.
Miss Emma Bartlett vs. Franz Meinberg. Bridle fronts.
Rec'd.
Petition.
Affidavit.
Specification.
Drawing.
Model.
Cert. dep.
Cash.
Add'l fee cert.
" " cash.
Examined.
Issue.
Patented , 187 .
Recorded vol. page.
Circular.

1872.

Statement, Nov. 8, '72.
Nov. 14th, '72, decided in favor of plaintiff, upon default limit of appeal, 20 days.

368 Defendant's counsel also offers in evidence official letter from the Patent Office to F. Meinberg, dated October 5th, 1872, and the same is marked Defendant's Exhibit 37, February 10th, 1876, E. C. W., Notary.

(Objected to as immaterial, incompetent, and not proper sur-rebuttal.)

Defendant's Exhibit No. 37, February 10th, 1876.—E. C. W., Notary.

U. S. PATENT OFFICE,
Washington, D. C., Oct. 5th, 1872.

SIR: Your application for a patent for an improvement in brow bands for bridles has been examined and allowed. The patent will be engrossed for issue on the receipt of twenty dollars, the balance of the fee payable thereon, if received within six months from this date.

If the final fee is not paid within that time the patent will be withheld, and your only relief will be under the provisions of section 35 of the patent act approved July 8th, 1870.

When you send the final fee, you will also send, distinctly and plainly written, the name of the inventor and invention; and if assigned, the names of the assignees. If you desire to have the patent issue to assignees, an assignment containing a request to that effect must be duly filed in this office on or before the date of payment of final fee.

You are requested at the same time to notify the office how many extra copies of the specification and accompanying drawing, if any, you

desire to have furnished you. These copies will be charged for at the following rates: single copies, uncertified, 25 cents; twenty copies or more, 10 cents each. The money should accompany the order.

Respectfully,

M. D. LEGGETT,
Commissioner.

FRANZ MEINBERG,
(Care T. D. Stetson,)
N. Y. City.

Defendant's counsel also offers in evidence official letter from the Patent Office to F. Meinberg, dated Oct. 26th, 1872, and the same is marked Defendant's Exhibit 38, February 10th, 1876.

E. C. W., *Notary.*

(Same objection as to last exhibit.)
Copy.

369 *Defendant's Exhibit No.* 38, *M. M. M., February 10th*, 1876.—*E. C. W., Notary.*

(Interference cases.)

DEPARTMENT OF THE INTERIOR,
U. S. PATENT OFFICE,
Washington, D. C., October 26th, 187 .

FRANZ MEINBERG,
(Care of T. D. Stetson,)
No. 16 Murray street, New York City:

Please find below a copy of a communication from the examiner, concerning your application for a patent for front bands for harness, filed the 19th day of September, 1872.

Very respectfully,

M. D. LEGGETT,
Commissioner.

EXAMINERS' ROOM, No. 95.

In the matter of the alleged invention above referred to notice is hereby given that in the particulars hereinafter named, another party, Emma Bartlett, of N. Y., attorney, Alexander & Mason, Washington, D. C., claims to be the first and original inventor, and that the question of priority will be determined in conformity with the rules and regulations for the conduct of interferences, a copy of which will be found inclosed.

The preliminary statement called for by rule 53 must be filed on or before the 8th day of November, 1872. This statement must be sealed up before filing (to be opened only by the examiner of interferences), and the name of the party filing it and the subject of the invention indicated on the envelope.

In case the party who was first to make application for a patent alone files a statement, no testimony will be required, but priority of invention will be awarded to him. In default of such filing by the earlier applicant and the other applicant does file the required statement, no testimony will be received from the former going to prove the date of his invention prior to the date of his application for a patent. In the event of neither party filing a statement, a decision will be rendered in favor of the party who was first to file application for a patent.

The subject-matter involved is, the adaptation of a concave metal stiffening plate to leather brow bands.

Defendant's counsel also offers in evidence official letter from the Patent Office to F. Meinberg, dated November 14th, 1872, and the same is marked Defendant's Exhibit 39, February 10th, 1876, E. C. W., Notary.

(Same objection.)

370 *Defendant's Exhibit No. 39, February 10th, 1876.—E. C. W., Notary.*

(Interference cases.)

DEPARTMENT OF THE INTERIOR,
U. S. PATENT OFFICE,
Washington, D. C., November 14th, 1872.

FRANZ MEINBERG,
(Care T. D. Stetson,)
No. 16 Murray Street, New York City:

Please find below a copy of a communication from the examiner of interferences in the matter of the interference between your invention and that of Emma Bartlett for front bands for harness.

An appeal may be taken from the decision of the examiner within 20 days.

(See section 42 of the act of July 8th, 1870.)

Very respectfully,

M. D. LEGGETT,
Commissioner.

ROOM No. 8.

In the matter of the preliminary interference above referred to, upon which an examination was appointed for the 8th day of November, 1872, the question of priority of invention has been decided in Meinberg's favor.

(Copies of the decision will be furnished by the office at the usual rates.)

Defendant's counsel also offers in evidence certified copy from the files of the Patent Office of the file wrapper, contents, and drawing in the matter of the application of Miss Emma Bartlett for patent for bridle-front, filed Oct. 7th, 1872, and the same is marked Defendant's Exhibit 40, February 10th, 1876, E. C. W., Notary.

(Same objection as to Exhibit 36.)

Defendant's counsel also offers in evidence Trow's New York City Directory for the year ending May 1st, 1865, and Trow's New York City Directory for the year ending May 1st, 1860, and the same are marked respectively Defendant's Exhibits 41 and 42, February 10th, 1876, E. C. W., Notary, and counsel requests complainant to admit that it appears from these directories that the premises known as No. 567 Broadway, New York, are located at the corner of Prince st. and Broadway.

(Complainant's counsel objects to the introduction of these directories on the grounds that it does not appear for what reason they are offered, and that they are immaterial, incompetent, and not proper sur-rebuttal.

Also admits that it does appear by said directories that 567 Broadway is located at the corner of Prince and Broadway.

Also calls on defendant's counsel to state what he proposes to prove by these books, and if any particular matter therein, that he now point it out.

Defendant's counsel replies that one object in introducing said
371 directories is to show to the court the admission therein contained as to their insufficiency and lack of correctness; another object is to show that the name of James W. Hamilton, trunkmaker, appears in the same, but that his place of business is not given.

Complainant objects, that it does not appear that James W. Hamilton is the same person who testified in this suit.)

Defendant's counsel gives notice that on Wednesday, the 16th inst., at 10 a. m., he will proceed to take the deposition de bene esse of Mrs. Amelia S. Blair and others at No. 34 School st., Boston, Massachusetts, at the office of J. L. S. Roberts, esq., before John R. Baker, notary public, and invites complainant's counsel to attend and cross-examine.

Adjourned to Friday, February 18th, at 1 p. m.

Deposition of witness taken before me, John R. Baker, a notary public within and for the county of Suffolk and commonwealth of Massachusetts, on Wednesday, February 16th, A. D. 1876, at the office of J. L. S. Roberts, esq., No. 34 School st., in the city of Boston, in the county and commonwealth aforesaid, pursuant to the notice to be read in evidence on behalf of the defendant in a certain suit in equity now pending in the circuit court of the United States for the third judicial circuit and district of New Jersey, wherein George Crouch is complainant and William Roemer is defendant.

Present on behalf of complainant, E. B. Barnum, esq.; present on behalf of defendant, John S. L. Roberts, esq.

Deposition of AMELIA S. BLAIR:

Q. What is your name, age, and residence?

A. Amelia S. Blair; age, 22; when I am at home, I live with my father, Mr. Seth H. Hatch, at East Somerville, Massachusetts.

Q. 2. Please examine this shawl-strap, marked Defendant's Exhibit No. 27, E. C. W., Notary, and state if you have ever seen the same before.

A. Yes, sir.

Q. 3. Please state when you first saw it and under what circumstances.

(Objected to by E. B. Barnum, of counsel for complainant, if it is intended to prove knowledge of prior use by this witness of complainant's invention, on the ground that witness is not named in the answer as having such knowledge, and, further, that it is not proper sur-rebuttal.)

A. It was shortly after my father returned from the war he made them for me. (That is the first time I ever saw these straps.) I don't remember the precise year. It was before the year 1869.

(Second clause of the answer beginning with "that" and ending with the word "straps" objected to by counsel as not responsive in part and objectionable as to that part on the same grounds.)

Q. 4. To what did you refer in your last answer when you made use of the words "these straps"?

(Objected to by counsel for complainant on the same grounds as interrogatory 3, as immaterial.)

A. These that I hold in my hand, meaning Exhibit 27, E. C. W., Notary.

Q. 5. Please state, if you can, how long before the year 1869 you had this strap, Exhibit 27, I refer to.

372 (Objected to by counsel for complainant; same grounds as interrogatory 3.)

A. I think it was the second year after my father returned from the war; the second winter—my father returned in the fall; they were made before the year 1869. That is all that I can say about it.

Q. 6. Can you not state how long you had this strap, Exhibit 27, before 1869; about how many years I mean?

(Same objection as to interrogatory 3, and also as already repeated in the answer by counsel for complainant.)

A. I think I had it two or three years.

Q. 7. In the year 1869, state what became of this shawl-strap, Exhibit 27; whether or not you parted possession with it; and, if so, who afterwards had it, so far as you know, and give its history from that time to the present, so far as you may be able.

A. I gave it to my cousin, Carrie Elmes, in 1869. She lived in Wiscasset, Maine. I don't know what became of it after that time, but presume it remained in her possession. From that time I have not seen it till this morning. She is now dead.

Q. 8. Are you positive that this strap is the one you gave to your cousin, Carrie Elmes, and was the handle at the time of the gift the same as now appears on said shawl-strap?

A. Yes, sir; so far as I can see.

Q. 9. Did you ever have occasion to use this shawl-strap before giving it to Miss Carrie Elmes; and, if so, how many times?

(Same objection as to interrogatory 3, and as immaterial, by counsel for complainant.)

A. I used this straps once before giving it to her.

Q. 10. What time in the year was it that your father Seth H. Hatch, made this strap and gave it to you?

(Objected to by counsel for complainant on same grounds as to interrogatory 3 and as immaterial.)

A. In the winter.

Q. 11. On what occasion was it given to you, if you remember?

(Same objection as to interrogatory 3 and as immaterial, made by counsel for complainant.)

A. Christmas present.

Q. 12. How long have you been married, and what was your name before marriage?

(Objected to, as not in sur-rebuttal and immaterial, by counsel for complainant.)

A. I have been married four years, and my name before marriage was Amelia S. Hatch.

Complainant's counsel declines to cross-examine on the grounds stated in interrogatory 3 et seq.

Witness, after hearing her deposition read, wishes to correct her answer to interrogatory 7 by stating "that I saw her, Carrie Elmes, use this strap once afterwards, at my house, in the spring of 1875."

AMELIA S. BLAIR.

UNITED STATES OF AMERICA,
District of Massachusetts, Suffolk, ss:

I, John R. Baker, notary public, do hereby certify that the within named Amelia S. Blair was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in the cause named
373 in the caption; that the said witness signed the foregoing deposition in my presence, after the same had been reduced to writing by me in the presence of witness, and that said deposition was taken as stated in said caption.

Fees: Witness fee and travel, $2.00; Magistrate's fee, 10.00; $12.00. Paid by counsel for defendant.

Witness my hand and notarial seal this sixteenth day of February, 1876.

[L. S.] JOHN R. BAKER.
Notary Public.

NEW YORK, *February 18th*, 1876.

Met pursuant to adjournment. Present, counsel as before.

Defendant closes.

It is agreed between counsel that the defendants shall have the right to print and file the deposition of Mrs. Blair without further notice of publication.

374 UNITED STATES OF AMERICA,
District of New Jersey, sct:

I certify the foregoing to be a true and faithful copy of the record and proceedings of the circuit court of the United States in and for the district of New Jersey in a certain suit in equity therein lately depending between George Crouch, appellant, and William Roemer, respondent.

In testimony whereof I have hereunto subscribed my name, and affixed the seal of the said circuit court at Trenton, this twenty-fourth day of June, 1878, and in the one hundred and second year of the Independence of the United States.

[SEAL.] S. D. OLIPHANT,
Clerk of Circuit Court.

(Indorsemont on cover:) No. 471. George Crouch, appellant, vs. William Roemer. New Jersey C. C. U. S. Filed 10th September, 1878.